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THE VILLAGE CHARTER.

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THE VILLAGE CHARTER,

IN TWO PARTS.

PART I.

Laws Governing all Villages

IN THE STATE OF NEW YORK.

PART II.

General Act for the Incorporation of Villages.

(Chapter 291, Laws of 1870)

With the Decisions of the Courts.

Compiled by

JOHN N. DRAKE, Counsellor at Law,

BROCKPORT, N. Y.

1894.

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THIS work has been compiled as a Hand-book for Village officials, and a book for reference and study by the tax payers. At the same time it is hoped that it will prove an acceptable addition to the libraries of the Profession.

The compiler believes that if Boards of Trustees will place the Laws Governing Villages in the hands of the citizens, particularly the business portion of the community, the difficulties experienced will be greatly lessened, new officials will be better prepared for their duties, and the tax payers be far better satisfied when they know their own rights, and the powers and duties of their officers. This is in line with the action of the State in publishing ths session laws and filing them in the offices of the town and village clerks; but much more practicable and useful, for here the acts are placed together in compact form, readily understood by any taxpayer.

For villages incorporated under the "General Act," this work forms a complete charter, AND EVERYTHING IN IT IS IMPORTANT.

For villages incorporated under "Special Acts" only Part I is to be considered. This, however, contains so many general statutes, which are made supplementary to the Special Charters, that such villages cannot safely act without being familiar with and having them readily accessible.

All statutes are given as amended to the present time. The greatest care has been taken in the compilation of this work to secure absolute accuracy and completeness; but should omissions or errors be found, the compiler will be thankful to any one who will kindly inform him of the same.

Brockport, N. Y., Sept. 1, 1894.

JOHN N. DRAKE.

The Village Charter.

PART I.

General Statutes Governing all Villages in the State of New York.

GENERAL MUNICIPAL LAW.

SHORT TITLE AND USE OF TERMS.—This chapter shall be known as the general municipal law.

The term, municipal corporation, as used in this chapter, includes only a county, town, city and village. The term, governing board, includes the board of supervisors of a county, the town board of a town, the common council of a city, and the board of trustees of a village. L. 1892. C. 683 —§ 1.

INVESTIGATION OF EXPENDITURES OF TOWNS AND VILLAGES.—If twenty-five freeholders in any town or village shall present to a justice of the supreme court of the judical district in which such town or village is situated, an affidavit, stating that they are freeholders and have paid taxes on real property within such town or village within one year, that they have reason to believe that the moneys of such town or village are being unlawfully or corruptly expended, and the grounds of their belief, such justice, upon ten days' notice to the supervisor, and the officers of the town disbursing the funds to which such moneys belong, or the trustees and treasurer of the village, shall make a summary investigation into the financial affairs of such town or village, and the accounts of such officers, and, in his discretion, may appoint experts to make such investigation, and may cause the result thereof to be published in such manner as he may deem proper.

The costs incurred in such investigation shall be taxed by the justice, and paid, upon his order, by the officers whose expenditures are investigated, if the facts in such affidavit be substantially proved, and otherwise, by the freeholders making such affidavit. If such justice shall be satisfied that any of the moneys of such town or village are being unlawfully or corruptly expended, or are being appropriated for purposes to which they are not properly applicable, or are improvidently squandered or wasted, he shall forthwith grant an order restraining such unlawful or corrupt expenditure, or such other improper use of such moneys. Id. § 3.

TEMPORARY LOANS.—Moneys shall not be borrowed by a municipal corporation on temporary loan, except in anticipation of the taxes of the current fiscal year, and for the purposes for which such taxes are levied, and shall not be in excess of the amount of such taxes. Such loans shall always be made payable within eight months, and in no case shall interest run on any such loan after such taxes are paid into the treasury of the corporation. Id. § 4.

FUNDED DEBT.—A funded debt shall not be contracted by a municipal corporation, except for a specific object, expressly stated in the ordinance or resolution proposing it; nor unless such ordinance or resolution shall be passed by a two-third vote of all the members elected to the board or council adopting it, or submitted to, and approved by the electors of the town or county, or tax payers of the village or city when required by law. Such ordinance or resolution shall provide for raising annually, by tax, a sum sufficient to pay the interest and the principal, as the same shall become due. Id. § 5.

PAYMENT OF MUNICIPAL BONDS.—Where the bonds of a municipal corporation have been lawfully issued, and the payment of the principal or interest thereof shall not have been otherwise paid or provided for, the same shall be a charge upon such corporation, and shall be levied and assessed, collected and paid the same as other debts and charges. When for any reason any portion of the principal or interest due upon such bonds shall not have been paid, the same shall be assessed, levied and collected at the first assessment and collection of taxes by such corporation after such omission. Id. § 6.

FUNDED AND BONDED DEBTS.—The bonded indebtedness of a municipal corporation, including interest due or unpaid, or any part thereof, may be paid up or retired by the issue of new substituted bonds for like amounts by the board of supervisors or supervisor, board, council or officers having in charge the payment of such bonds. Such new bonds shall only be issued when the existing bonds can be retired by the substitution of the new bonds therefor, or can be paid up by money realized by the sale of such new bonds. Where such bonded indebtedness shall become due within two years from the issue of such new bonds, such new bonds may be issued and sold to provide money in advance to pay up such existing bonds when they shall become due. Such new bonds shall contain a recital that they are issued pursuant to this section, which recital shall be conclusive evidence of their validity and of the regularity of the issue; shall be made payable not less than one or more than thirty years from their date; shall bear

date and draw interest from the date of the payment of the existing bonds, or the receipt of the money to pay the same, at not exceeding the rate of four per centum per annum, payable quarterly, semi-annually or annually; and an amount equal to not less than two per centum of the whole amount of such new bonds shall be payable each year after the issue thereof. Such new bonds shall be sold and negotiated at the best price obtainable, not less than their par value; shall be valid and binding on the municipal corporation issuing them; and until payable shall be exempt from taxation for town, county, municipal or state purposes. All bonds and coupons retired or paid shall be immediately canceled. A certificate shall be issued by the officer, board or body issuing such new bonds, stating the amount of existing bonds, and of the new bonds so issued, which shall be forthwith filed in the office of the county clerk. Except as provided in this section, new bonds shall not be issued in pursuance thereof, for bonds of a municipal corporation adjudged invalid by the final judgment of a competent court. A majority of the taxpayers of a town, voting at a general town meeting, or special town meeting duly called, may authorize the issue in pursuance of this section of new bonds for such invalid bonds, and each new bond so issued shall contain substantially the following recital: "The issue of this bond is duly authorized by a vote of the taxpayers of the said town;" which shall be conclusive evidence of such fact. The payment, adjustment or compromise of a part of the bonded indebtedness of a municipal corporation shall not be deemed an admission of the validity or a recognition of any part of the bonded indebtedness of such municipal corporation not paid, adjusted or compromised. Id. §7, as amd. L. 1893. C. 466. 100 N. Y., 490,26 Hun. 161.

ISSUANCE of MUNICIPAL BONDS.—Each bond issued by a municipal corporation shall be signed by each officer issuing the same, with the designation of his office; and the interest coupons attached thereto, if any, shall be signed by one of their number. Each such bonds shall state the place of payment and, if no coupons are attached thereto, the name of the payee. Id. § 8.

REGISTRY OF MUNICIPAL BONDS.—Each municipal corporation shall keep in the office of his clerk suitable books, in which shall be entered a full description of the amount, rate of interest, class, number, date of issue, pursuant to what law, and maturity of all bonds issued by any of its officers, and, if such statement is not already entered, of all bonds converted from coupon into registered bonds. A bond to which no coupons are attached may be registered, at the request of the payee, in the books so kept in the office of such clerk, and a certificate of such registry shall be indorsed upon the bond by such clerk, and attested by his seal, if he has one. The clerk shall be entitled to a fee of twenty-five cents for each bond so registered. The principal and interest of a registered municipal bond shall be payable only to the payee, his legal representatives, successors or assigns, and shall be transferrable only upon presentation to such clerk, with a written assignment duly acknowledged or approved. The name of the assignee shall be entered upon such bond so transferred and the books so kept in the office of the clerk. Id. § 9

CONVERSION OF COUPON INTO REGISTERED BONDS.—When the owner of coupon bonds of a municipal corporation shall present any such bonds to the officers who issued the same, or their successors, with a written request for their conversion into registered bonds, such officers shall cut off and destroy the coupons and stamp, print or write upon each of the bonds a statement, properly dated, of the amount and value of such coupons, and that the interest, at the rate and on the date, as was provided by the coupons, as well as the principal, is to be paid to such owner, his legal representives, successors or assigns, at a place therein stated, which shall be the place stated in the coupons, unless changed with the written consent of the owner; and thereupon such bonds may be registered in the office of the clerk of the municipal corporation. This section shall not apply where provision is otherwise made by law or local ordinance, for the conversion or exchange of coupons for registered bonds. Id. § 10.

DEFECTS NOT INVALIDATING MUNICIPAL BONDS.—When the bonds of a municipal corporation have been issued and sold by the proper authorities, and the time fixed for their maturity shall be for a longer period than provided by the law under which they were issued, a variance of not exceeding sixty days shall not effect their validity. Id. § 11. 92 N. Y. 662.

Municipal taxes of railroads payable to the county treasurer. If a town, village or city has outstanding unpaid bonds, issued, or substituted for bonds issued, to aid in the construction of a railroad therein, so much of all taxes as shall be necessary to take up such bonds, except school district and highway taxes, collected on the assessed valuation of such railroad in such municipal corporation, shall be paid over to the treasurer of the county in which the municipal corporation is located. Such treasurer shall purchase with such moneys of any town, village or city, such bonds, when they can be purchased at or below par, and shall immediately cancel them in the presence of the county judge. If such bonds cannot be purchased at or below par, such treasurer shall invest such money in the bonds of the United States, of the state of New York, or of any village or city of such state, issued pursuant to law; and shall hold such bonds as a sinking fund for the redemption and payment of such outstanding railroad aid bonds. If a county treasurer shall unreasonably neglect to comply with this section, any taxpayer of the town, village or city having so issued its bonds may apply to the county judge of the county in which such municipal corporation is situated, for an order compelling such treasurer to execute the provisions of this section. The county treasurer of any county in which one or more towns therein shall have issued bonds for railroad purposes, shall when directed by the board of supervisors or county judge of the county, execute and file in the office of the county clerk an undertaking, with not less than two sureties, approved by such board or judge, to the effect that he will faithfully perform his duties pursuant to this section. The annual report of a county treasurer shall fully state, under the head of "railroad sinking fund," the name and character of all such investments made by him or his predecessors, and the condition of such fund. Id. § 12 as Amd. L. 1893 c. 466.

ABOLITION OF OFFICE OF RAILROAD COMMISSIONERS.—The board of supervisors of any county may, upon the application of the auditing board of any municipal corporation therein, by resolution, abolish the office of railroad commissioners of such municipal corporation, and direct the manner of the transfer of their duties to the supervisor of the town, or the treasurer of the municipal corporation other than a town, and upon his compliance with such directions, such transferee shall be vested with all the powers conferred upon such railroad commissioners and subject to all the duties imposed upon them. Id. § 13.

APPOINTMENT OF RAILROAD COMMISSIONERS.—The county judge of any county within which is a municipal corporation having or being entitled to have railroad commissioners, when this chapter shall take effect, and in which the duties imposed upon such commissioners are not fully performed, shall continue to appoint and commission, upon the application of twenty freeholders within such corporation, three persons, who shall be freeholders and residents taxpayers therein commissioners for the purpose of performing the duties and completing the business required of them pursuant to this chapter or any law. Such commissioners shall hold their office for five years, and until others are appointed by the county judge, unless their duties shall be sooner performed, or the office shall be abolished, who shall also, in like manner, fill any vacancies that may exist therein. Such commissioners shall each receive the sum of three dollars per day for each day actually engaged in the discharge of their duties, and the necessary disbursements to be audited and paid by the usual auditing and disbursing officers of such municipal corporation. A majority of such commissioners, at a meeting of which all have notice, shall constitute a quorum. Id. § 14.

OATH AND UNDERTAKING OF COMMISSIONERS.—Before entering upon their duties such commissioners shall take the constitutional oath of office, and make and file with the county clerk of their county, their joint and several undertaking, with two or more sureties to be appointed by the county judge of their county, to the effect that they will faithfully discharge their duties as such commissioners, and truly keep, pay over and account for all moneys belonging to such corporation coming into their hands. Id. § 15.

EXCHANGE OR SALE OF RAILROAD STOCK AND BONDS.—The commissioners or officers of a municipal corporation, having the lawful charge and control of any railroad stock or bonds, for or in payment of which the bonds of such municipal corporation have been lawfully issued in aid of such railroad corporation, may exchange the stock or bonds of such railroad corporation for and in payment of such bonds, or the new substituted bonds of such municipal corporation, when such exchange can be made for not less than the par value of the stocks or bonds so held by them. If they cannot make such exchange they may sell such stock or bonds at not less than par; but they may, on the application and with the approval, of the governing board of the municipal corporation, owning such stock and bonds, exchange, sell or dispose of such stock or bonds, at the best price and upon the best terms obtainable, for the municipal corporation they

represent, and shall execute to the purchaser the necessary transfers therefor. All moneys received for any stock or bonds shall only be applied to the payment and extinguishment of the bonds of the municipal corporation, lawfully issued in aid of any such railroad, or substituted therefor; except that if the bonds so issued or substituted have all been paid, or the moneys so realized shall be more than sufficient to pay them in full, and all the costs and expenses of the sale, such proceeds or balance thereof shall be paid by the officers making the sale, to the supervisor of the town, or the treasurer of the municipal corporation, and applied to such lawful uses as the governing board of the municipal corporation, entiled to the same, may direct. Id. § 16.

ANNUAL REPORT OF COMMISSIONERS AND PAYMENT OF BONDS.—The commissioners of a municipal corporation, having in charge the moneys received and collected, and who are responsible for the payment of the interest of the bonds lawfully issued by such municipal corporation, in aid of railroads, shall annually report to the governing board of the municipal corporation, the total amount of the municipal indebtedness of the muncipal corporation they represent, upon such bonds or such new bonds substituted therefor, the date of the bonds and when payable, the rate of interest thereon, the acts under which they were issued, the amount of principal and interest that will become due thereon before the next annual tax levy and collection of taxes for the next succeeding year, and the amount in their hands applicable to the payment of the principal or interest thereon. Each year such governing board shall levy and collect of the municipal corporation sufficient money to pay such principal and interest, as the same shall become due and payable. When collected, such moneys, with the unpaid sums on hand, shall be forthwith paid over to such commissioners, and applied by them to the purposes for which collected or held. When paid, such bonds shall be presented by such commissioners to the governing board of the municipal corporation, at least five days before the annual town meeting, village or city election, or meeting of the board of supervisors, next thereafter held, who shall cancel the same, and make and file a record thereof in the clerk's office of the municipal corporation, whose bonds were so paid or canceled. Id. 17 as Amd. L. 1893, C. 466.

ACCOUNTS AND LOANS BY COMMISSIONERS.—Such commissioners shall present to the auditing board of the municipal corporation they represent, at each annual meeting of such board, a written statement or report, showing all their receipts and expenditures, with vouchers. They shall also loan on proper security or collaterals, or deposit in some solvent bank, or banking institutions, at the best rate of interest they can obtain, or invest in the bonds of the municipal corporation they represent, or in bonds of the state, or of any town, village, city or county therein, issued pursuant to law, or in the bonds of the United States, all moneys that shall come into their hands by virture of their office, and not needed for current liabilities; and all earnings, profits or interest accuruing from such loans, deposits or investments, shall be credited to the municipal corporation they represent, and accounted for in their annual settlement with the governing board thereof. Id. § 18.

REISSUE OF LOST OR DESTROYED BONDS.—When any bonds lawfully issued by a municipal corporation in aid of any railroad, or in substitution for bonds so issued, shall be lost or destroyed, such commissioners may issue new bonds in the place of the one so lost or destroyed, at the same rate of interest, and to become payable at the same time, upon the owner furnishing satisfactory proof, by affidavit, of such ownership, and loss or destruction, and a written indemnity, with at least two sureties, approved as to form and sufficiency by the county judge of the county in which such municipal corporation is situated. Every new bond so issued shall state upon its face the number and denomination of the bond for which it is issued, that it is issued in the place of such bond claimed to have been lost or destroyed, that it is issued as a duplicate thereof, and that but one is to be paid. Such affidavit and indemnity, duly indorsed, shall be immediately filed in the county clerk's office. Id. §19.

PAYMENT OF JUDGMENTS AGAINST MUNICIPAL CORPORATION.—When a final judgement for a sum of money shall be recovered against a municipal corporation, and the execution thereof shall not be stayed pursuant to law, or the time for such stay shall have expired, the treasurer or other financial officer of such corporation having sufficient moneys in his hands belonging to the corporation not otherwise specifically appropriated, shall pay such judgment upon the production of a certified copy of the docket thereof. Id. § 20.

LIABILITY FOR DAMAGES BY MOBS AND RIOTS.—A city or county shall be liable to a person whose property is destroyed or injured therein by a mob or riot, for the damages sustained thereby, if the consent or negligence of such person did not contribute to such distruction or injury, and such person shall have used all reasonable diligence to prevent such damage, shall not have notified the mayor of the city, or sheriff of the county, of a threat or attempt to destroy or injure his property by a mob or riot, immediately upon acquiring such knowledge, and shall bring an action therefor within three months after such damages were sustained. A mayor or sheriff receiving notification of a threat or attempt to destroy or injure property by a mob or riot shall take all lawful means to protect such property; and if he shall neglect or refuse, the person whose property shall be destroyed or injured, may elect to bring his action for damages against such officer instead of the city or county. Id. § 21.

CONDEMNATION OF REAL PROPERTY.—A municipal corporation anthorized by law to take and hold real property for the uses and purposes of the corporation, may, if it is unable to agree with the owners for the purchase thereof, acquire title to such property by condemnation. Id. § 22.

INSURANCE OF PROPERTY.—Public officers having by law the care and custody of the public buildings and other property of a municipal corporation, may insure the same at the expense and for the benefit of such corporation. Id. § 23.

FREE PUBLIC LIBRARIES.—A majority of the taxable inhabitants of a town, city or village, as shown by the last preceding assessment-roll thereof, may petition the governing board of such municipal corporation for the establish-

ment of a free public library therein; which petition shall be approved as to its sufficiency by the county judge of the county in which such municipal corporation is located, by his indorsement thereon, and shall be filed by the clerk of such municipal corporation, in the clerk's office of the county in which such corporation is situated. Upon such petition being made and approved, the governing board of such municipal corporation may, by a resolution, establish and maintain a free public library or reading room therein, with or without branches, under such regulations as such board may prescribe, and the town, village or city may appropriate for suitable buildings or rooms, and for the foundation of such library or reading room, a sum not exceeding one dollar for each elector residing therein, at the time such appropriation is made, who voted at the last preceding general election therein; and may also appropriate annually, for the maintainance and increase thereof, or of the public library or reading room organized pursuant to law, in such town, village or city, a sum not exceeding seventy cents for each such elector therein; and may receive, hold and manage any devise, bequest or donation, for the establishment, increase or maintainance of a free library or reading room in such municipal corporation. The money so appropriated shall be audited, assessed, levied and collected the same as other town, village or city charges. When a village shall establish a free public library or reading room, it shall be exempt from any charge for the estblishment or maintainance of a library or reading room in the town in which it is situated. Id. § 24.

ACQUISITION OF LANDS FOR ERECTION OF MONUMENTS.—The governing board of the village or town, or the trustees of a monument association, may acquire not to exceed three acres of land, for the erection of a soldiers' monument, or a monument or other structure as a memorial of some distinguishing of important event in the history of the state or nation, and for laying out such lands as a public park or square, if such lands are vacant or have buildings thereon not exceeding two thousand five hundred dollars in value, and if a judge of the county, or a justice of the supreme court of the district, in which such memorial is to be erected, shall give his written approval of the acquisition of such lands for such purpose. Id. § 25.

LEASES OF PUBLIC BUILDINGS TO GRAND ARMY POSTS.—A municipal corporation may lease, for not exceeding five years, to a post or posts of the Grand Army of the Republic, or other veteran organization of honorably discharged union soldiers, sailors or marines, a public building or part thereof, belonging to such municipal corporation, except school houses in actual use as such, without expense, or at a nominal rent, fixed by the board or council having charge of such buildings. Id. § 26.

DISCRIMINATION AGAINST NON-RESIDENTS.—Any restriction or regulation imposed by the governing board of a municipal corporation upon the inhabitants of any other municipal corporation within this state, carrying on or dedesiring to carry on any lawful business or calling within the limits thereof, which shall not be necessary for the proper regulation of such trade, business or calling, and shall not apply to citizens of all parts of the state alike, except ordinances or regulations in reference to traveling circuses, shows and exhibitions, shall be void. Id. § 27.

VILLAGE WATERWORKS.

BOARD OF WATER COMMISSIONERS.—The authorities of any corporporated village in the State may hereafter organize into a board of water commissioners in the manner by this act provided. L. 1875, c. 181, § 1. 5 N. Y. St. R. 172; 1 Hun, 311; 92 N. Y. 368; 101 Id. 9.

BOARDS HOW CONSTITUTED, DUTIES OF COMMISSIONERS, VACANCIES.—For the purposes of this act said authorities are hereby defined to be in villages as follows, namely: First, the president and trustees thereof. The terms of office of said commissioners shall respectively continue for the terms for which said authorities shall be or shall have been respectively elected; or second, the same number of commissioners as hereinbefore provided for, to be elected by the residents of such village, qualified to vote for trustees, at a special election to be called by the trustees of such village on the written request of a majority of the residents taxpayers of said village, whose names appear on the last assessment roll of said village, for the purpose of electing said commissioners. The trustees shall give notice of said special election in the same manner as provided for in section twenty-one of the act hereby amended. Said election shall be by ballot. The said board of trustees, or any of them, shall preside at and certify the result of said election, which shall be conducted in the same manner as an annual election for trustees; provided, however, that all such water commissioners shall be elected at large in said villages, and not by any ward, district or division thereof. The clerk of the village shall forthwith serve upon the commissioners elected notice of their election, and they shall within five days thereafter, make and file with said clerk an official oath that they will faithfully discharge the duties of the office to which they have been elected. No person shall be eligible to the office of commissioner unless eligible to the office of trustee. Said commissioners shall, at their first meeting, divided themselves by lot into three classes, whose term of office shall expire respectively in one, two and three years from the next succeeding annual election of such village. From and after the said special election, the election of successors to said commissioner shall take place at the annual elections of said village. Vacancies in the board of water commissioners, caused by death, resignation or otherwise, shall be filled by the board of trustees of such village, the appointee to hold office until his successors shall be elected at the next annual election and shall have qualified; provided, however, that this act shall not impair or affect nor be construed to repeal any of the provisions of chapter eighty of the laws of eighteen hundred and eighty-two, entitled "An act to provide for a seperate board of water commissioners in the village of Suspension Bridge, Niagara county, in the place of the trustees of said village, the mode and time of their election, and defining their powers, duties and term of office," nor of the acts amending the same. Id. § 2 as Amd. L. 1891, c. 74. 101, N. Y. 12. 55 Hun 610.

HOW BOARD ORGANIZED, ETC.—Whenever a majority of said authorities, in a village, shall deem it advisable to organize as a board of water commissioners, they shall certify the same in writing to the clerk of the village, who shall thereupon, and within five days thereafter, notify said au-

thorities, in writing, to attend a meeting to be held within five days thereafter, for the purpose of organizing as a board of water commissioners. At the time and place named in said notice said authorities, or a majority of them, shall meet and organize by electing one of their number president of the board. They shall also elect from their number a secretary and treasurer. Such board may make all necessary rules and regulations for its government and the transaction of its business. The treasurer shall give a bond, with sufficient sureties, for the faithful performance of the duties of his office, in such amount as may be determined by the board of commissioners, to be approved by said commissioners. The board of trustees of any village, at their option, either before or after said authorities shall have organized as a board of water commissioners, in place of acting themselves as a board of water commissioners, may cause the president of their board to appoint commissioners, three or more in number, subject to confirmation by a majority of said trustees, to take charge of and to carry on the water works then belonging to the village, and to erect, build and to carry on and take charge of a new system of water works, or additional water works for such village as a board of water commissioners, under the provisions of this act and the amendments thereto, which commissioners shall determine by lot their terms of service; one-third of whom shall serve for one year, one-third for two years, and one-third for three years from and after the next annual election of such village. The successors of the appointed commissioners shall be elected at each annual election of the village held just prior to the time for the expiration of the term of service of each commissioner, as other village officers are elected, to hold their office for three years from and after such election. No commissioner shall be eligible to such office unless he be a resident, legal voter and a holder of real estate in fee simple in his own name, taxed to him on the last assessment roll of such village. The said board of water commissioners so appointed or elected shall have the same powers and be subject to the limitations as provided for by this act, and the amendments thereto for other boards of water commissioners. Each commissioner appointed or elected as aforesaid shall before acting as such commissioner take the oath of office, and file a bond as provided for in section nine of this act. Such appointed commissioners and their successors shall act without pay for their services. It shall be the duty of the board, of president and trustees of the village, at the request of the board of water commissioners, to call a special meeting or meetings of the voters and taxpayers whose names appear on the last assessment roll of the village, on the question of taxation for the water debt or expenses as provided for in section twenty-one of this act. Vacancies in such board of water commissioners shall be filled as provided for by this act for vacancies in boards of water commissioners. Id. § 3, as amd, L. 1894, c. 318.

Duties of Commissioners as to Supply of Water; to Acquire Title to Land.—It shall be the duty of the commissioners to examine and consider all matters relating to supplying the village with prue and wholesome water; they shall have power to employ engineers, surveyors, and such other persons as shall be necessary for that purpose; they shall adopt such plans as, in their opinion, may be most

feasible for procuring such supply of water, and they may at any time before the appointment of commissioners of appraisal as hereinafter provided amend the same. Such plans shall embrace proper distribution pipes and supplies for all streets and places where in their opinion it shall be of interest to the village for domestic purposes or for protection against fire, and shall ascertain the probable amount of money necessary to carry the same into effect; they shall have power to contract for, purchase and take by deed, or other instrument under seal, in the name of said village all lands, streams, water, water rights, or other property, real or personal, or rights therein, situate at any place within the county or counties in which said village may be situated, which may be required for the purpose, and also the right to lay, relay and maintain pipes through lands and to take, detain or divert water or streams of water which may be required for the purpose without taking the fee of the lands through which the pipes are laid or over which such streams of water flow, and to contract for the execution of the work, or any part thereof, or the supply of any necessary material; and in case it shall at any time be deemed necessary by the said water commissioners for the purpose of enlarging, improving or perfecting the supply of water undertaken to be provided pursuant to said act, or the source, means or mode of supply, to acquire any additional lands, streams, water or water rights or other property, real or personal, or rights therein, said commissioners shall have power to contract for or purchase or acquire the same and also the right to lay, relay and maintain pipes through lands and to take, detain or divert water or streams of water which may be deemed necessary by the said commissioners without taking fee of the lands through which the pipes are laid or over which such streams of water flow in the like name and manner and with like effect as is provided by said act, for taking or acquiring any such property or rights in the first instance; and the commissioners and their servants and agents are authorized to enter upon any lands, streams or water for the purpose of making surveys and to agree with the owner of any such property or right which may be deemed necessary for the purposes of this act as to the amount of compensation to be paid such owner, subject to a revision by the court upon the application of any three taxable inhabitants of the village. Id. § 4, as am'd L. 1881, c. 175, § 1; L. 1883, c. 255, § 1, and L. 1885, c. 211, § 1.

SAME: PROCEEDINGS; FURNISHING WATER; MAP AND SURVEY TO BE MADE; MAY TAKE ADDITIONAL LANDS.—Before entering upon, detaining, taking, diverting or using any lands, streams or water or rights therein for the purposes of said act, said water commissioners shall cause a survey and map to be made of the lands, water or streams intended to be taken, diverted or affected, or in which a right is intended to be taken for any of said purposes, on which map the land, streams or water of each owner or occupant shall be designated, and which map shall be signed by the president of said board of water commissioners and their said secretary, and be filed in the office of the county clerk of the county or counties in which said lands, streams or water are situated; they shall also, in all cases, by an order made by them, and signed by said president and secretary, to be attached to and filed with said map, describe the

lands, streams or water, and the title and interest therein, which they intend to acquire for the purposes of such improvement. Any map and order heretofore or hereafter filed under the provisions of said act, may be amended in the discretion of the said water commissioners, at any time before the appointment of commissioners of appraisal as in the next section provided, by filing in the said county clerk's office a new or further map and order conforming in all respects to the requirements of this section, together with a notice, signed by the president of said water commissioners, that the said map and order then on file have been amended, and thereupon the said new and further map and order shall have the force and effect of the map and order so amended, and the map and order last'named shall be deemed withdrawn, except as far as they relate to proceedings and acts already had and done. Whenever said water commissioners shall deem it necessary to take, detain or divert any additional lands, streams or water or rights therein, they shall make, or cause to be made, and file a like map and order, in the same place, and authenticated in the same manner as is required in taking like property or rights in the first instance, showing and describing such additional lands, streams or water and the rights, title and interest therein intended to be taken; at any time within one year after the filing of any such map and order or amended map and order, said water commissioners may take possession of such lands, streams or water, or of the right, title or interest therein intended to be taken as specified in said order or amended order, or of any part thereof, and use the same for the purposes of such improvement, without any suit or proceeding at law; provided, however, that within the time last aforesaid they shall, if they do not agree with the owner or owners thereof as to the compensation to be paid therefor, commence proceedings provided in the next section, to acquire such title; and the credit of the village, for the benefit of which said improvement is undertaken, shall be, and hereby is, pledged for the payment of the compensation for the property so taken. Id. § 5, as am'd L. 1885, c. 211, § 2.

SAME: CONDEMNATION PROCEEDINGS.—Whenever any such board of water commissioners is unable to acquire by agreement any lands, streams, water or other property, or the right, title or interest, if any, less than a fee in land or the right to use or divert any water or streams required or deemed necessary for the purpose contemplated by the said act, it shall have the power to acquire the same in the manner and by the proceedings prescribed in the following subdivisions.

1. Said board of water commissioners for the purpose of acquiring the lands, streams, water or other property or right, title or interest, if any, less than a fee in land, or the right to use and divert any water or streams, which may be deemed necessary by them, shall present a petition to the supreme court at any special term thereof held in the judicial district in which the property described in the petition is situate, praying for the appointment of commissioners of appraisal; such petition shall be signed and verified by the president or a member of said board, and shall describe the lands, water streams or other property and the right, title or interest, if any, less than a fee in land, and the right to use and divert any water or streams which said board de-

sires to acquire, and shall give the names and places of residence of the owners and occupants thereof so far as the same are known to said board of water commissioners, and must state in effect that such board of water commissioners have duly organized, and entered upon the discharge of their duties, and that the right to appropriate, use and occupy the lands, streams or water or other property, or the right, title or interest therein mentioned and described in said petition is necessary for the purposes of the proposed improvement, and that such board of water commissioners has not been able to acquire the lands, streams, water or other property, or the right, title or interest therein required from the owner or owners thereof, or to agree with them in respect to the compensation to be paid therefor, and the reason of such inability, and that the provisions of said act have been complied with. A copy of such petition with notice of the time and place the same will be presented to said court, must be served on all owners and occupants of said lands, streams, water or other property, or the right, title or interest therein required, at least ten days prior to the presentation to said court of said petition.

2. If the person on whom such service is to be made resides in this state and is not an infant, idot or person of unsound mind, and the place of such residence is known to the water commissioner, such service shall be made personally, or by leaving the same at the usual place of residence of the person to be served, with some person of suitable age.

3. If the person on whom such service is to be made resides out of the state and has an agent residing in this state, known to said water commissioners, and authorized to contract for the sale of such property so to be acquired, such service may be made on such agent in the manner prescribed by subdivision two, or in such other mode as the court may direct.

4. In all cases not herein provided for, service of notices, orders and other papers in such proceeding may be made as such court or any judge thereof shall direct.

5. On presenting such petition to said court, with proof of service of the same and of such notice as hereinbefore provided, all persons so served, and all whom the court may permit to intervene, may show cause against granting the prayer of the petition and may disprove any of the facts alleged in it. The court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against it, an order shall be made appointing three disinterested and competent persons, who reside in the county where such property or some part thereof is situate, and who shall be freeholders, as commissioners to ascertain and appraise the compensation to be made to the owner or owners of the lands, streams, water or other property, or the right, title or interest therein sought to be required, and fixed the time and place for the first meeting of such commissioners of appraisal.

6. The commissioners of appraisal shall take and subscribe the oath prescribed by article twelve of the constitution of the state. They shall have power to call witnesses, examine them, and to adjourn the proceedings from time to time in their discretion. Whenever they meet, except by appointment of the court or pursuant to adjournment, they shall

cause reasonable notice of such meeting to be given to the parties who have appeared on such appraisal or their attorney. Any one of said commissioners may issue subpoenas for and administer the usual oath to the witnesses. They shall view the lands, streams, water or other property described in the petition and hear the proofs and allegations of the parties, and after the testimony is closed and without unnecessary delay, they shall meet, ascertain and determine the compensation which ought justly to be made by said board of water commissioners to the party or parties owning the lands, streams, water or other property or the right, title or interest therein, to be appraised by them; and in determining the amount of such compensation, they shall not make any allowance or deduction on account of any real or supposed benefits which the owner or owners may derive from the proposed improvement. They, or a majority of them, shall also determine and certify what ought to be paid to any special guardian of an infant, idiot, or person of unsound mind, or to an attorney appointed by the court to attend to the interests of any unknown owner not personally served with notice of the proceedings and who has not appeared, for costs, expenses and counsel fees. They shall make a report to the supreme court, signed by them, or a majority of them, of the proceedings before them, and transmit therewith the minutes of the testimony, if any. Said commissioners of appraisal shall each be entitled to receive five dollars for their expenses and services for each day they are necessarily engaged in such duties, to be paid by the board of water commissioners.

7. On such report being made, the said board of water commissioners shall give ten days' notice in writing to the parties who have appeared or to their attorneys, that at a special term of the supreme court, at a time and place designated in said notice, a motion will be made for the confirmation of said report, and the court may thereupon confirm such report and make an order reciting the substance of such proceedings and a description of the lands, streams, water or other property, or any right, title or interest therein which has been appraised in such proceeding, and directing to whom such compensation is to be paid, or where and in what manner it shall be deposited.

8. Such order or a certified copy thereof shall be filed and recorded in the office of the clerk of the county or counties in which such property or some part thereof is situate, and thereupon and on payment or deposit of the sums to be paid as compensation as aforesaid, and for costs, expenses and counsel fees, the said village shall be entitled to hold and divert in perpetuity said lands, streams, water or other property, or the right, title or interest therein, so appraised for the purposes contemplated by said act, and all rights of action by reason of such holding and diversion shall be forever barred. All lands, streams, water or other property, or any right, title or interest therein acquired for the purposes contemplated by said act, shall be deemed to be acquired for public use. Within twenty days after the confirmation of the report of the commissioners of appraisal, either party may appeal, by notice in writing to the other, from the appraisal and report of the commissioners of appraisal to a general or special term of the supreme court held in the department in which such property is situate. Such appeal shall be brought on for argument and be heard

according to the rules and practices of said court in similar proceedings. On the hearing of such appeal, the court may affirm such report or direct a new appraisal before the same or new commissioners in its discretion, and the second hearing, determination and report shall be made in like manner as the first. The second report shall be final and conclusive upon all parties interested. If the amount of compensation to be made by said board is increased by the second report, the difference shall be paid by said board to the persons entitled to the same, or shall be deposited as the court may direct. If the award has been paid and the amount thereof shall be diminished, the difference shall be refunded by the party who has received the same, and judgment therefor may be rendered by the court on the confirmation of said second report against the parties liable to refund the same, and in favor of said board, which judgment shall be docketed and enforced in the same manner as judgments in civil actions.

9. If there are adverse and conflicting claims to the money to be paid as compensation as aforesaid, or any part thereof, the court may direct the money to be paid into court, and may determine who is entitled to the same, and to whom the same shall be paid, and may, in its discretion, order a reference to ascertain and report the facts.

10. The court shall appoint some competent attorney to appear for and protect the rights of any unknown owner or of any owner whose residence is unknown, and who has not appeared in such proceeding. The court may, also, upon application by or on behalf of any infant or person of unsound mind who as owner or owners are interested in the lands, streams, water or other property, or the right, title or interest therein, to be acquired, or in default of such application, then at the time of the presentation of the petition, upon the application of the board of water commissioners, appoint some suitable person as special guardian of such infant or person of unsound mind, who shall appear and care for the interests of such infant or person of unsound mind. The court shall also have power, at any time, to amend any defect in any proceeding authorized by this act; or cause new parties to be added, or such further notice to be given to any party, as may be deemed proper; the court shall also have the power to fill any vacancy in the office of commissioners of appraisal that may occur by death, refusal or neglect to serve. During the pendency of any appeal or proceeding for review, the court may, in its discretion, direct a stay of all proceedings for the collection of the award appealed from or sought to be reviewed. Id. § 6. as am'd L. 1883, c. 255, § 2, and L. 1885, c. 211, § 3. 100 N. Y. 11.

PERFECTING TITLE; INJUNCTIONS.—Whenever it shall be found that the title to any such land, streams, water or other property, or the right, title or interest therein, taken or occupied and sought to be acquired by the said board of water commissioners for any of the purposes of this act, is defective, said board may proceed to perfect such title in the same manner as if no appraisal had been made, and the supreme court, or any judge thereof, may, in the meantime, on such terms as may be just, stay all actions or proceedings against the said board of water commissioners and the said village, their officers, servants and agents, on account of the use of the lands, streams, water or other

property, or the right, title, or interest therein, so used under such defective title. Id. § 7, as am'd L. 1885, c. 211, § 4.

COMMISSIONERS TO BORROW MONEY ON CREDIT OF VILLAGE.—The said commissioners shall have power, and it shall be their duty, to borrow, from time to time, upon the credit of the village, a sum not exceeding ten per centum of the assessed value of the real and personal estate of the valuation of the village, as shall appear by the then last assessment roll, upon such terms of credit not exceeding thirty years, and at rate of interest not exceeding six per centum per annum, as shall seem to them for the best interest of said village; and to secure the payment of said loan, said commissioners are authorized to make, execute and deliver bonds, certificates or other obligations, which shall be signed by them, or any three of them, as said commissioners; which said bonds, certificates or other obligations shall be made payable in such respective amounts, and at such respective times, as such commissioners shall deem best, and said bonds and the interest thereon shall be a valid liability against said village, and said bonds and the interest thereon shall be a valid liability against said village, and the credit of said village is pledged for the payment of the same; and the said money so borrowed shall be appropriated by said commissioners to supplying said village with water, agreeable with the provisions of this act. But no such bonds, certificates or other obligations shall be disposed of by such commissioners at less than the par value thereof. L. 1875, c. 181, § 8, as am'd L. 1881, c. 175, § 2.

COMMISSIONERS TO FILE BONDS BEFORE INCURRING DEBT.—No bonds, certificates or other obligations of indebtedness shall be issued, nor shall any official act be done by any board of commissioners, authorized by this act, or a majority of them, shall have filed with the clerk of the county within which such village or some portion thereof shall be situated, their joint and several bond in the sum of thirty thousand dollars, if the system of water-works to be erected or in operation, will or has cost more than thirty thousand dollars, or in the sum of ten thousand dollars, if the system of water-works will or has cost less than thirty thousand dollars, with sureties qualifying in double the amount to be justified before a notary public, and approved by the county judge of said county, or a justice of the supreme court, and conditioned for the faithful performance of the duties of such commissioners; or in lieu of the aforesaid joint and several bonds, each of said commissioners, or a majority thereof, may give a seperate bond, with sureties, or with any number of the other water commissioners, a joint and several bond with sureties, in the amount of at least eight thousand dollars each, if the system of water works has or will cost more than thirty thousand dollars, or if the system cost less than thirty thousand dollars, of at least three thousand dollars each, conditioned for the faithful performance of his or their duty as such commissioner or commissioners, and filed, justified, and approved as above provided. But in case such commissioners shall have been elected or appointed as a separate body from the board of trustees, said bond or bonds above required, may be approved by the trustees of the village, instead of the county judge or a justice of the supreme court, providing no member of the board of trustees shall than be holding the office of water commissioner. And

when the term of office of any commissioner shall expire, he shall hold his office as such commissioner until new bonds or bond shall have been given by the board of which his successor is to be a member, or by his successor in office, which bonds shall be in similar form, for like amounts, justified, approved and filed in a similar manner. Id. § 9 as am'd L. 1894 c. 195.

POWERS OF COMMISSIONERS ON CONSTRUCTION OF WORKS; BIDS.—Said commissioners shall have power to make all necessary contracts for labor and materials in the construction of the work and all pertaining thereto, which said contract shall be in writing, signed by a majority of the commissioners, and of which there shall be three originals executed by the parties, which shall be numbered by the same number, one of which shall be given to the contractor, one to the village clerk, which shall be filed by said clerk with the records of said village, and one retained by the commissions; and three weeks' public notice shall be given in one or more newspapers published in said village, or, if no paper is published in said village, then in one or more of the nearest newspapers published in the county, as the commissioners shall direct, of the times and places at which sealed proposals will be received for entering into contracts, and the commissioners shall have full discretion as to the acceptance or rejection of all sealed proposals; and in case any materials and labor shall then remain uncontracted for, the like notice for sealed proposals and like proceedings may be had as above provided; and so, from time to time, as said commissioners may direct, for work or materials; and every person who shall enter into any contract for the supply of materials, or the performance of any work, shall give satisfactory security to such commissioners for the faithful performance of his contract according to its terms. The commissioners without advertising for bids, may employ labor and buy material in open market for storehouses, shops and water mains, in value not exceeding five hundred dollars in any one year; or for distributing pipes and cut-offs connecting the mains with the surface supply pipes to buildings and yards, or for valves, gates, hydrants and hydrant pipes, or for repairs to the water-works, or for tools, implements and supplies needed to make such additions and repairs. The commissioners may employ a superintendent, and such other help as may be required in taking charge of and in carrying on the water-works. whose term of service shall close at the option of the board. The superintendent shall give to the commissioners a bond, with sureties, conditioned for the faithful performance of the duties required of him by the board, to be approved by them. On and after the organization of any board of water commissioners, pursuant to the provisions of this act, they shall take charge of and carry on any system of water-works then belonging to the village. Id. §10, as am'd L. 1889, c. 455, § 3. 92 N. Y. 368.

COMMISSIONERS NOT TO BE INTERESTED.—No commissioner shall be directly or indirectly interested in any contract relating to the work or materials therefor, nor in any work or materials for the work, nor for any portion of the water-works, nor shall he receive any compensation for his services, nor for anything pertaining thereto. Id. § 11.

USES OF STREETS, WATER-RIGHTS.—The said commissioners, and all acting under their authority, shall have the rights to use the ground or soil under any street, highway or road within the county in which such village is situated for the purpose of introducing water into and through any and all portions of said village, on condition that they shall cause the surface of such street, highway or roads to be re-laid and restored to its usual state, and all damages done thereto to be repaired, and such rights shall be continuous for the purpose of repairing and relaying water pipes upon like conditions. And the said commissioners shall have the further power to contract with and sell to any corporation, stock company or individual, without the corporate limits of said village, the right to make connection with the distributing pipes of said village, for the purpose of drawing water therefrom, at such prices and on such conditions as in the judgment of said commissioners, shall be for the best interests of said village, and, within the limits of the village which has not established a system of water works in pursuance of law, to distribute water to the inhabitants thereof and to use the ground or soil under any street therein, for the purpose of laying distributing pipes or making connections therewith, on condition that they shall cause the surface of the street to be relaid and restored to its usual state, and all damage done thereto to be repaired. But no such right shall be granted or in any way enforced, when, by so doing, the supply for the wants or necessities of said village shall thereby be curtailed. Id. § 12, as am'd L. 1893 c. 624.

WATER RENTS.—The said commissioners shall establish a scale of rents to be charged and paid to the commissioners from time to time, either in advance or at such time and times, as the commissioners shall prescribe, for the supply of water, to be called "water rents," and appropriated to different classes of buildings in said village, in reference to their dimensions, values, exposure to fires, ordinary or extraordinary uses for dwellings, stores, shops, hotels, factories, livery stables, barns and all other buildings, establishments and trades, yards, number of families or occupants, or consumption of water as near as may be practicable, and from time to time, either modify, amend, increase or diminish such rents; and said commissioners and their respective employees shall be authorized at all times to enter into any building or place where water is used from supply pipes, to examine as to the water, quantity of water used and the manner of using it. Id. § 13.

CONNECTING PIPES.—The connecting or supplying pipes leading from buildings or yards to the distribution pipes shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard, and shall not be inserted or connected with the main pipe until a permit therefor shall be obtained from said commissioners, or other persons having charge thereof, and all such connecting or supply pipes shall be constructed and connected in the manner directed by said commissioners or persons in charge. Id. § 14.

WATER RENTS, HOW APPLIED.—The entire annual receipts for water rents after deducting therefrom such sums as may be necessary to defray the expenses or repairs of said water works, and of extending the same, and other

necessary expenses, shall be applied toward the payment of the interest on the loan hereinbefore authorized, and also toward the creation of a sinking fund for the payment of the principal of said loan, as it shall from time to time become due and payable, which sinking fund shall be managed by said commissioners. No investment shall be made in behalf of such sinking fund, except in the bonds of the United States, of the state of New York, or of any city of this State, and in the bonds, certificates or other obligations authorized to be issued by such village under this act, which last-named bonds, certificates and obligations, the commissioners may purchase at any time when they shall have funds applicable, at prices not exceeding their par value, and when so purchased said bonds, certificates and obligations shall not be reissued but shall be immediately canceled. Id. § 15.

TAX IN CASE OF DEFICIENCY.—In case the estimated amount of the entire annual receipts for water rents, after deducting as in the preceding section provided, shall, in any official year ending with the next annual meeting of the village, not be sufficient to pay the interest for that year on said loans, or in case in any such year when any of the principal of the loan secured by said bonds falls due, the amount of said estimated receipts of said water rents, after making said estimated deductions, together with the sum in the said sinking fund shall not be sufficient to pay said principal, and also said interest, falling due that year, as estimated by the water commissioners, it shall be the duty of the board of trustees of said village, and they are hereby directed, on notice of such estimate from the commissioners, to cause such deficiency to be assessed, levied and collected from the taxable property of said village at the same time and in the same manner as other expenses of said village are assessed, levied and collected and the same shall be paid to the treasurer of the board of water commissioners to be applied to the payment of such interest or principal, or both. Whenever a deficiency shall be about to exist to pay such maturing interest or principal, or both, upon notice of the same by the board of water commissioners, it shall be the duty of the board of trustees, prior to the maturity of such obligations, to borrow on temporary loan on the credit of the village, at not exceeding the legal rate of interest, such sum as may be required to pay such deficiency, and pay the same to the treasurer of the board of water commissioners, and the same shall be applied to the payment of the interest or principal, or both, on said loans secured by said bonds. The amounts to become due on such temporary loans shall be assessed, levied and collected from the taxable property of said village at the same time and manner as other expenses of said village are assessed, levied and collected. Any surplus at any time in the hands of the board of water commissioners beyond the sinking fund required to pay such principal or interest, or both, and not required by them to pay other obligations of the board, or to extend, repair or carry on the water-works or for a reserve for unforeseen accidents, shall be paid to the treasurer of the village, for the use of the village, as the same may be appropriated by the board of trustees. Id. § 16, as am'd L. 1890, c. 327.

COMMISSIONERS TO MAKE ANNUAL STATEMENT.—The said commissioners shall annually, on the first day of May

in each year, and at all such other times as required by the board of supervisors of a county in which said village or some portion thereof is situated, deliver to said board of supervisors a detailed statement of all their accounts, a general statement of all their work, and condition of their affairs and state of finances, including a full detail of the amount expended in the progress of the work, and a particularized statement of any deficiency as to the water rents in meeting the principal and interest of the sum borrowed, as in the previous section hereinbefore referred to, and all books and papers of every kind and description kept by said commissioners, upon which are entries of their transactions as such, shall, at all times be subject to the inspection by said board of supervisors, and by every elector of said village. In case such commissioners shall have been elected as such by the vote of the electors of the village or appointed by the president of the board of trustees, as provided for by this act, then and in that case the board of water commissioners shall furnish such statement to the board of president and trustees of the village in lieu of furnishing such statement to the board of supervisors of the county. Id. § 17, as am'd L. 1883, c. 255, § 4, and L. 1889, c. 455, § 4.

JUDGMENTS AGAINST COMMISSIONERS, HOW ENFORCED. —The board of water commissioners of any village may sue, complain or defend in any court, in the name of said village, in any action to enforce any contract with said board, or to enforce any claim for damages, water rents, labor or supplies connected with the building or carrying on of the water-works by said board. The complaint or answer of said village in such actions shall be verified by the oath of some member of the board. The complaint in action against such village in such cases shall be served on the board of water commissioners, whose duty it shall be to defend in the name of the village. The damages and costs recovered by the village in such actions shall be paid to the treasurer of the board of water commissioners for their use. The damages and costs against the village in such actions may be paid by the treasurer of said board from any funds in his hands not otherwise appropriated. The foregoing provision of this section shall not apply to any actions now pending in the courts. All judgments against said commissioners in their names of office and judgments against them, where the transaction upon which the action was brought shall have been in the performance of their duties as commissioners, shall not be enforced against the individual property of either of said commissioners, but such claims on which such judgments shall have been obtained, may be prosecuted against the village as provided for by this section. Id. § 18 as am'd L. 1890, c. 527.

COMMISSIONERS TO ESTABLISH RULES AND REGULATIONS. —The said commissioners shall have power, from time to time, to make and establish such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as they shall judge proper for the election of their officers, and as to the duties of these officers and employees, and as to the means of enforcing said duties, and for the regulation of times and manner of holding meetings of commissioners, and for enforcing the collection of water rents and manner of using water, and generally for transacting, managing and directing the affairs of the commis-

sioners, and may provide regulations as to the use of water, and enforce the observance thereof by cutting off the use and supply of water. Id. § 19.

VIOLATION OF ACT A MISDEMEANOR.—A Violation of any of the provisions of this act by any of such commissioners shall be deemed a misdemeanor. Id., § 20.

VOTE AS TO WATER TAX, HOW CONDUCTED.—At any time after the passage of this act, a meeting of the electors of any village may be called by its board of trustees, upon notice published for two weeks in one or more weekly newspapers published in said village, or if no newspaper is published in such village, then in the nearest newspaper published in the county in which such village may be situated, and at which the question will be submitted, whether the taxes in this act authorized for the purposes aforesaid shall be levied and collected from the village, as in this act provided; and no commissioners shall proceed with any duties under this act, unless the majority of the voters and the tax payers whose names appear upon the last assessment roll of the village voting at such meeting shall vote in favor of such taxes. Said votes shall be by ballot, and their shall be written or printed on the ballots of those in favor of taxes, "For the water taxes," and on the ballots of those opposed, "Against the water taxes." The said board of trustees, or any of them, shall preside and certify the result of said meeting, and the village clerk shall, within five days thereafter, serve each of said commissioners with a certified copy of such certificate. Id., § 21. 5 N. Y. St. R. 173.

PROCEEDINGS TO ACQUIRE RIGHTS OF EXISTING CORPORATIONS.—Whenever any corporation shall have been organized under the laws of this State for the purpose of supplying the inhabitants of any village with water, and it shall become or be deemed necessary by the board of water commissioners herein authorized to be created, that the rights, privileges, grants and properties of such corporation shall be required for any of the purposes of this act, the commissioners herein authorized to be created shall have the power, and it shall be their duty to make, or cause to be made, a thorough examination of the works, rights, privileges and properties owned or held by such corporations, or any of them, and if such commissioners shall determine that said works, rights, privileges and properties are necessary for the purposes of this act, they shall have the right to make application to the Supreme Court, at a special term thereof, held in the judicial district in which the works of such corporation are situated, for the appointment of three commissioners of appraisement, who shall be disinterested freeholders and residents of the county. Notice of such determination and application must be served upon the president and secretary of such corporation at least ten days prior to the presentation of any such application. The court shall thereupon appoint the said commissioners of appraisement, whose duty it shall be to examine and appraise the value of the works, rights, privileges and properties required to be taken by the board of Water commissioners, and such commissioners of appraisement shall make a report in writing of such examination and appraisement to said court at a special term thereof. Said report shall be verified by the oaths of said com-

missioners; they shall file a copy thereof with the board of water commissionors, and they shall cause a copy thereof to be served upon the president or secretary of the company, whose rights and properties are the subject of such appraisement, with a notice of the time and place of the presentation of said report for confirmation. Such notice shall be served at least ten days prior to the time when said report shall be presented for confirmation. If objection be made to the confirmation of said report, by said company, or by a water commissioner, or if objection be made thereto by any three taxpayers of said village, the court may order a re-examination of said works and properties, and a re appraisement thereof; and the court may make an order that testimony be taken concerning the value of said works and properties. Said re-examination and re-appraisement shall be made, and said testimony shall be taken within twenty days from the time when said order shall be made, unless such time shall be extended by the court; and upon the presentation of said second report, the court shall proceed to consider the same, and shall thereupon confirm or reject the same. The compensation of such commissioners shall be three dollars per day for each day actually engaged, together with their actual and necessary expenses as adjusted by the court. The awards made to the corporation whose rights and properties are so taken, shall be paid by the water commissioners herein authorized to be created, from the proceeds of the bonds, certificates or other obligations, which are hereby authorized to be issued by such commissioners for such purpose, and thereupon all the rights, privileges, works, franchises and properties owned by said corporation, or held by it for its purposes, shall be vested in said village. Id. § 22.

RESERVOIRS, HOW CONSTRUCTED.—In the construction of any storage reservoir now being erected or hereafter to be erected within the limits of this State, for the purpose of supplying water for the use of any city, town or village, all vegetable or other matter subject to decay shall be removed from the banks thereof between its highest and lowest possible flow lines, or be covered by gravel or stone to prevent any such decay and consequent injury to public health. Id. § 23.

LIMITATION OF ACT.—The provisions of this act shall not apply to any village wherein a board of water commissioners has been created according to law. Id. § 24.

SPECIAL ELECTION AS TO EXTENDING WATER-WORKS; PROCEEDINGS THEREAT.—Any village of this State owning a system of water-works that have been constructed pursuant to the provisions of chapter one hundred and eighty-one of the laws of eighteen hundred and seventy-five may extend their water mains beyond the corporate limits of the village for the purpose of selling said village water, under such rules and regulations as the board of water commissioners may prescribe, to persons or corporations located outside the corporation boundaries, subject to the following procedure and requirements: The board of water commissioners may at any time call a special corporation meeting, and it shall be their duty to call such a meeting whenever petitioned so to do by twenty-five electors of said village, to consider the question of extending the water mains for the purpose aforesaid. Said special meeting shall be called by

publishing a notice once in each week for two successive weeks in the village paper stating when and where the said special meeting will be held, and the object of said meeting. Said meeting shall be within five days after the second publication. All electors qualified to vote at the annual corporation meeting shall be entitled to vote at such special meeting; the voting shall be by ballot. On one ballot shall be written or printed "For extending the water mains." On the other ballot shall be written or printed "Against extending the water mains." Said special meeting shall be opened and presided over by the board of water commissioners, who shall have for that occasion the powers of a board of inspectors of election. Any person voting illegally at said election shall be subject to all the pains and penalties for illegal voting at town meetings. Said meeting shall be declared open for the reception of votes at one o'clock in the afternoon, and the polls shall so remain open for two hours, when if all persons present entitled to vote have had an opportunity to vote the polls shall be declared closed, and the water commissioners, acting as such inspectors, shall at once proceed to canvass said vote. If two-thirds of the votes polled shall be "Fer extending the water mains," then the water board shall have authority to extend said mains as aforesaid, provided that they shall not enter upon said work until they have entered upon their records a minute of the effect that they have received pledges for the taking and paying for said village water by persons or corporations located beyond the village limits, which amount to at least ten per centum on the estimated cost of said extension; and provided further that the cost of said extension added to the original cost of the water works shall not exceed the limits stated in chapter one hundred and eighty-one of the laws of eighteen hundred and seventy-five. The board of water commissioners are authorized to borrow the money needed to build any such extension in the manner provided for in said act of eighteen hundred and seventy-five. L. 1886, c. 497, § 1.

SCALE OF RATES; GRIEVANCES; COLLECTION OF ARREARS —Boards of water commissioners, acting under chapter one hundred and eighty-one of the laws of eighteen hundred and seventy-five, and acts amendatory thereof, may establish a scale of rates for the use of water and also rates for fire protection, to be assessed on all real property abutting on the mains or within two hundred feet of the hydrants, or on such real property so abutting, or within such distance as such boards may deem beneficial, upon which real property the water is not used by the owners or occupants thereof for domestic or manufacturing purposes. A day shall be appointed by the board for hearing grievances against such assessment, and said assessments shall be subject to review as other assessments. Upon completion of said assessment the board shall certify the same to its treasurer, who shall receive said rates for thirty days without fees. Upon the expiration of such time said board may issue its warrant to the village collector for the collection of arrears, and they shall be collected in the same manner as other taxes. The provisions of this act shall not apply to the counties of Kings, Queens, Richmond and Suffolk. L. 1889, c. 507, as am'd L. 1894, c. 284.

WATER-WORKS CORPORATIONS.

MUST SUPPLY WATER; TRUSTEES MAY CONTRACT; TAX THEREFOR.—Every such corporation shall supply the authorities or any of the inhabitants of any city, town or village through which the conduits or mains of such corporations may pass, or wherein such corporations may have organized, with pure and wholesome water at reasonable rates and cost, and the town board of any town, and the board of trustees of any incorporated village, and the water commissioners, or other board of officials performing the duties of water commissioners, and having charge of the water supplies of any city of this State, shall have the power to contract in the name and behalf of the municipal corporation of which they are officers, for the term of one year or more, for the delivery by such company to the town, village, or city, of water, through hydrants or otherwise, for the extinguishment of fires, and for sanitary and other public purposes; and the amount of such contract agreed to be paid shall be annually raised as a part of the expenses of such town, village or city, and shall be levied, assessed and collected in the same manner as other expenses of the town, village or city are raised, and when collected shall be kept separate from other funds of the town, village or city, and paid over to such corporation by the supervisor of the town, such trustees or city officials according to the terms and conditions of any such contract; and any such contract entered into by any town board, or by the board of trustees of any village, or by water commissioners, or other board performing the duties of water commisssoners, and having charge of the water supply of any city, shall be valid and binding upon such town, village or city, but no such contract shall be made for a longer period than ten years, nor for a sum exceeding, in the aggregate, two and one-half mills for every dollar of the taxable property of such town, village or city, per annum, except upon a petition of a majority of the taxable inhabitants of such town, village, or city, or portion thereof which it is propossed to supply with pure and wholesome water, unless a resolution authorizing the same has been submitted to a vote of the electors of the town, village or city, in the manner provided by the town law, village law, or city charter, and approved by a majority of the voters entitled to vote, and voting on such question at any annual election or special election duly called; and any town board or board of trustees, or board of water commissioners, or other city officials, when so authorized, may make such contract for a term not exceeding thirty years, and the amount of such contract shall be paid in semi-annual installments; provided that in towns where there shall be at the time of making any such contract, an incorporated village, constituting a part only of such town, no tax shall be assessed, levied or collected upon property within the limits of such village, for such purpose, except in pursuance of an agreement with the board of trustees of such village; and in any town where it is proposed to supply with water only a portion of such town, or the inhabitants of a portion of the town (such portion not being an incorporated village), the town board may contract, as hereinbefore prescribed, for a supply of water as aforesaid for such portion of the town, or for the inhabitants of such portion, and the whole town shall be bound by such contract when duly made; but the entire

annual rental or expense, or such portion thereof as they may deem just, may be directed by said town board to be assessed and levied upon, and collected from the taxable property of that portion of the town which will be benefited by such supply of water; provided always that such expense shall in no case exceed per year three mills upon each dollar of the taxable property of that portion of the town. L. 1890, c. 66, § 81, as Am'd L. 1894, c. 230. 131 N. Y. 19.

(NOTE.—For formation, etc., of such corporations, see Laws, 1890, c. 66. L. 1893, c. 549. L. 1894, c. 230).

PARKS AND PARK ASSOCIATIONS.

CERTAIN VILLAGES MAY ISSUE BONDS FOR PARKS.—Any village, whether incorporated under a special charter or the general act of incorporation of villages, situated in any town in which there has been condemned or appropriated for the purposes of a public park or parks, more than one-fourth in value of the taxable property, as the same appears by assessment roll last adopted prior to such condemnation or appropriation, may, after the election or elections, in the manner hereinafter provided, issue, from time to time, its bonds or obligations for a sum not exceeding fifteen per centum, or for a sum which, including the amount of the bonds or obligations previously issued under the provisions of this act, will not exceed the said fifteen per centum (in addition to the sum for which any village of the kind hereinbefore described may, at the time of the special election or elections hereinafter provided for, legally issue its bonds or other obligations) of the assessed valuation of the real estate in said village, as the same appears by its assessment roll last completed, prior to such election or elections. No bonds or additional bonds shall be issued hereunder, however, until the president of any such village shall have received a request in writing, signed by at least ten resident freeholders of said village, to call a special election of the taxpayers thereof to determine whether there shall be raised the sum named in said request, which must not exceed the aforesaid sum of fifteen per centum, or such sum as, including the amount of the bonds or obligatiotn previously issued under the provisions of this act, will nos exceed the aforesaid sum of fifteen per centum of the assessed valuation of the real estate within the said village (in addition to the sum any village of the class hereinabove described may, by general or special act, be allowed to issue its bonds). Within five days thereafter he shall call such special election, and shall designate the time and place of the said special election, which call shall be posted ten days prior to the date of said election, in at least five conspicuous places in said village. But no defect in the said request or notice; or in any other matters, except the actual vote or votes of the taxpayers hereinafter provided for, shall be deemed to invalidate the bonds hereby authorized. L. 1892, § 1, as Am'd L. 1894, c. 413.

(NOTE.—So few villages can use this act, the remainder is omitted; it can be found in statutes above named.)

VILLAGES MAY ACQUIRE LANDS FOR PARKS.—It shall be lawful for any incorporated village within this state to acquire by purchase, lease or gift, any lands within its corporate boundries or adjacent thereto, or within one mile thereof, to be used as a public park under the control of

the trustees of the village, and subject to such regulations as they may prescribe; but the total value of lands so acquired by any village shall not exceed three per cent of the assessed value of its taxable property; and whenever the board of trustees of any village shall have been previously authorized so to do, by a vote of the majority of the electors of the village voting thereon at any annual or special meeting duly called of such electors, they may acquire any lands for such purpose, and contract therefor, and cause to be raised by taxation upon the taxable property of the village, and by installments, if they shall see fit, such sum or sums as may be necessary to procure the title thereto, and annually thereafter such sums as may be necessary to meet the expense of the care, preservation and proper improvement of the lands acquired for the use aforesaid. L. 1888 c. 525.

PARK ASSOCIATIONS, HOW FORMED.—Any fifteen or more persons of full age, citizens of the United States, a majority of whom shall be citizens of, and residents within this State, who shall desire to associate themselves together for the purpose of providing parks and play-grounds for children in any of the cities, towns or villages of this State, may make, sign and acknowledge, before any person authorized to take the acknowledgment of deeds in this State, and file in the office of the Secretary of State, and also in the office of the clerk of the county in which such parks or play-grounds are to be situated, certificates in writing in which shall be stated the name or title by which the society shall be known in law, the city, town or village in which it is proposed to establish parks or play-grounds, the number of trustees, directors or managers to manage the same; the the names of the trustees, directors or managers of such society for the first year of its existence; but such certificate shall not be filed unless by the written consent and approbation of one of the justices of the Supreme Court of the Department in which such parks or play-grounds are to be situated, to be indorsed on such certificate. L. 1888, c. 293, § 1. 24 Barb. 524; 2 How. Pr. 61; 2 Duer, 48; 10 Wend. 17.

WHEN CORPORATION COMPLETE; POWERS OF.—Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon by virtue of this act be a body politic and corporate by the name stated in such certificate, and by that name, they and their successors shall and may have succession and shall be a person in law capable of suing and being sued, and they and their successors may have and use a common seal and the same may alter and change at pleasure; and they and their successors by their corporate name, shall, in law, be capable of taking, receiving, purchasing and holding by gift, purchase, bequest or devise, real and personal estate for the purposes of their incorporation and for no other purpose to an amount not exceeding the sum of one-half million dollars and such additional amount as may be authorized by the mayor and common council of any city or supervisor of any town or trustees of any village, as the case may be, in which it is proposed to establish and maintain such parks; and shall have power to make by-laws and rules for the management of its affairs and for the protection of its property and maintenance of order; to elect and appoint officers and agents of such society; and generally to manage and

conduct its affairs consistently with the constitution and laws of this State and of the United States and so as to promote the objects and purposes of its incorporation. Such corporations may also at their own expense appoint and employ police officers, who shall for the purpose of enforcing order and compliance with their rules, have all the powers and authority of the public police officers or patrolmen of the city, town or village wherein such parks of playgrounds may be situated within the limits of their parks or play-grounds and within one thousand feet of the limits thereof, subject however, to all laws, ordinances or police regulations of the cities, towns or villages in which such parks and play-grounds may be situated and subject to the authority of the commissioners, superintendents, captains, sergeants, or other superior police officers or authority of the particular district or locality in which the same may be. Id. § 2.

APPLICATION OF THIS ACT.—The provisions of this act shall not extend or apply to any association or individuals who shall, in the certificate filed with the Secretary of State, or with the county clerk, use or specify a name or style the same as that of any previously existing incorporated society in this State. Id. § 5.

SUBJECT TO VISITATION OF SUPREME COURT, ETC.—All institutions formed under this act, together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the Supreme Court, or by any person or persons who shall be appointed by the Supreme Court for that purpose, and it shall be the duty of the trustees or a majority of them, in the month of December in each year to make and file in the county clerk's office where the original certificate is filed, a certificate under their hands stating the names of the trustees and officers of such association or corporation, with an inventory of the property, effects and liabilities thereof, with an affidavit of the truth of such certificate and inventory, and also an affidavit that such association or corporation has not been engaged, directly or indirectly, in any other business than such as is set forth in the original certificate on file. Id. § 6.

GIFTS, ETC., IN TRUST FOR PUBLIC PARKS AND LIBRARIES.—It shall be lawful to grant and devise real estate and to give and bequeath personal property to trustees and their successors, in trust, for the purpose of creating, continuing and maintaining, according to the terms, conditions and provisions of such grant, gift, devise or bequest, one or more public parks or a public library or both, such park or parks or library in any village of this State. The number of such trustees shall not be less than three nor more than nine. L. 1890, c. 160, § 1, as am'd L. 1892, c. 25.

INCORPORATION THEREOF.—Whenever any such grant, gift, devise or bequest shall have been made, such trustees shall thereupon become and be a body politic and corporate, with the name which shall have been specified by the donor in making the donation, and with the number of trustees, within the foregoing limits, named by the donor; and such corporation shall have full power to take and hold all property which shall have been and also which shall thereafter be granted, given, devised or bequeathed to it as aforesaid for said uses and purposes, and shall possess

the powers and be subject to the provisions and restrictions contained in title three of chapter eighteen of part one of the Revised Statutes. If no name shall have been specified by the donor as aforesaid, the name of the corporation shall be such as the said trustees shall adopt, certify and file in the county clerk's office of the county in which the interested village is located. Id. § 2.

ELIGIBILITY OF TRUSTEES.—Residents of the interested village only, shall be eligible as trustees. In case of the death of a trustee, or of his resignation, removal from the village, removal from office, or inability to discharge the duties of his office his place shall be deemed to be vacant, and may be filled by the remaining trustees; and, in default of their so making an appointment within three months, the appointment to fill the vacancy shall be made by the supreme court, on the petition of any inhabitant of the interested village, and after due notice to the other trustees and to the president of the village. Said trustees shall be subject to removal by said court for malfeasance or misfeasance in office, after such notice, and after trial in such manner as said court shall direct. Id. § 3.

MANAGEMENT AND APPROPRIATION OF PROPERTY.—Said trustees shall have the custody and management of all the property of such corporation, and shall appropriate the same, so far as the terms, provisions and conditions of the donations will permit, for providing suitable grounds for such a public park or parks and properly preparing, beautifying, embellishing, and keeping up and maintaining the same, or for supplying such library with a suitable and proper edifice, rooms, furniture, books, maps, magazines, and whatever may be necessary to make, keep up and maintain a good and complete library, or for both purposes, and paying the expenses of the trust. Demising lands donated to the corporation, and investing and keeping money invested at interest, and using the rents and interest therefrom for park purposes, or library purposes, shall be deemed to be an appropriation of such property for said purposes. Id. § 4, as am'd L. 192, c 25.

FREE USE OF.—All such parks and libraries shall be free and open to the public for use and enjoyment, subject only to such reasonable rules and regulations as the trustees from time to time shall adopt and promulgate. Id. § 5, as am'd L. 1892, c. 25.

SUBJECT TO INSPECTION OF SUPREME COURT; COMPENSATION OF TRUSTEES.—All corporations existing under this act together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court, or of any person or persons who shall be appointed by the supreme court for that purpose; and it shall be the duty of the trustees or a majority of them, in the month of December in each year, to make and file in the office of the county clerk of the county in which the interested village is situate, a certificate under their hands, stating the names of the trustees and officers of such corporations, with an inventory of the property, effects and liabilities thereof, with an affidavit of the truth of such inventory and certificate. Said trustees shall be entitled to such compensation as said court shall fix. Said court shall also have power to control the discretion of said trustees in determining what property may be demised and

for how long; also how much money may be invested and kept invested on interest to produce an income to keep up and maintain the park, parks or libraries or both; and also in a summary way to determine the reasonableness of any rules and regulations, upon complaint of any inhabitant of the interested village, and upon notice of said trustees. Id. § 6, as am'd L. 1892, c. 25.

DEVISES AND BEQUESTS, PROVISO AS TO.—This act shall not be construed or held to authorize any devise or bequest whatever, unless the will was executed at least two months before the decease of the testator or testatrix, nor of more than one-half of the estate of the testator or the testatrix over and above the payment of debts, liabilities and expenses, in case he or she shall leave a husband, wife, child, or parent, him or her surviving. Id. § 7.

SCHOOLS.

LEVY OF TAX FOR SCHOOL PURPOSES; POWER TO BORROW MONEY, BONDS, ETC.—The corporate authorites of any incorporated village or city, in which any such union free school shall be established, shall have power, and it shall be their duty, to raise from time to time, by tax to be levied upon all the real and personal property in said city or village, as by law provided for the defraying of the expenses of its municipal government, such sum or sums as the board of education established therein shall declare necessary for teachers' wages and the ordinary contingent expenses of supporting the schools of said district. The sums so declared necessary shall be set forth in a detailed statement in writing, addressed to the corporate authorities by the board of education, giving the various purposes of anticipated expenditure, and the amount necessary for each; and the said corporate authorities shall have no power to withhold the sums so declared to be necessary; and such corporate authorities as aforesaid shall have power, and it shall be their duty to raise, from time to time, by tax as aforesaid, any such further sum or sums to be set forth in a detailed statement in writing, addressed to the corporate authorities by the board of education, giving the various purposes of the proposed expenditure, and the amount necessary for each which may have been or which may hereafter be authorized by a majority of the voters of such union free school district present and voting at any special district meeting duly convened, for making additions, alterations, or improvements to or on the sites or structures belonging to the district, or for the purchase of other sites or structures, or for a change of sites, or for the erection of new buildings, or for buying apparatus or fixtures, or for such other purposes relating to the support and welfare of the school as they may, by resolution, approve; and they may direct the moneys so voted to be levied in one sum, or by installments, but no addition to or change of site or purchase of a new site or tax for the purchase of any new site or structure, or for the purchase of an addition to the site of any school-house, or for building any new school-house, or for the erection of an addition to any school-house already built, shall be voted at any such

meeting unless a notice by the board of education stating that such tax will be proposed, and specifying the amount and object thereof shall have been published once in each week for the four weeks next preceding such district meeting, in two newspapers, if there shall be two, or in one newspaper if there shall be but one, published in such district. But if no newspaper shall then be published therein, the said notice shall be posted up in at least twenty of the most public places in said district twenty days before the time of such meeting. No vote to raise money shall be rescinded, nor the amount thereof be reduced at any subsequent meeting, unless the same be done within ten days after the same shall have been first voted. For the purpose of giving effect to these provisions, the corporate authorities are hereby authorized, whenever a tax shall have been voted to be collected in installments for the purpose of building a new school-house, or building an addition to a school-house, or making additions, alterations or improvments to buildings or structures belonging to the district, or for the purchase of a new site, or for an addition to a site, to borrow so much of the sum voted as may be necessary, at a rate of interest not exceeding six per cent, and to issue bonds or other evidences of indebtedness therefor, which shall be a charge upon the district, and be paid at maturity, and which shall not be sold below par. Said bonds or other evidences of indebtedness shall be prepared by the board of education, signed by the president and secretary thereof, and delivered to the treasurer of the incorporated village or city, who shall countersign the same, and give due notice of the time and place of the sale of such bonds, at least ten days prior thereto, by publication twice in two newspapers, if there shall be two, or in one newspaper, if there shall be but one, published in such district. But if no newspaper shall then be published therein, the said notice shall be posted up in at least ten of the most public places in said district ten days before the day of sale. The proceeds of the sale of said bonds shall be paid into the treasury of said incorporated village or city, to the credit of the board of education of such district. L. 1894 c. 556, § 9.

ANNUAL MEETING OF BOARD OF EDUCATION.—The annual meeting of the board of education of every such union free school district shall he held on the Tuesday next after the canvass and declaration of the election of the members of said board at the annual charter election of the village. Id. § 13 Sub. div. 2.

NOTE—For further provisions see the "Consolidated School Law." c. 556, L. 1894.

FIRE DEPARTMENTS.

TRUSTEES MAY ORGANIZE FIRE DEPARTMENT; RESOLUTION TO BE ENTERED AND FILED.—The board of trustees of any village in this state incorporated under a special charter, or under or in pursuance of any general statute, shall have power and are hereby authorized to organize fire, hook and ladder, hose and protective companies and a fire department in their respective villages (if none such exist

therein by special act) whenever in their judgment the public interests require; and to that end, may, by resolution to be entered on their minutes, and a duly authenticated copy thereof filed in the office of the clerk of the county where such village is situated, authorize the formation of of as many fire, hook and ladder, hose and protective companies as they may deem necessary, not exceeding, however, one of each for each one thousand of population therein. Protective companies shall be deemed to be engine companies, within the meaning and for the purposes of this act. L. 1887, c. 244, § 1, as am'd. L. 1888, c. 342, § 1.

FIRE COMPANIES TO BE CORPORATIONS; PROCESS.—All persons who now are or hereafter shall become members of hose, hook aud ladder or engine companies, not exceeding twenty-five members to each hose company and forty members to each hook and ladder or engine company or any such village incorporated as aforesaid who after being duly elected by their respective companies and confirmed by the board of trustees of such village, shall be and hereby are ordained, constituted and declared to be a body corporate and politic in fact and in name, by the name and style of the "fire department of ——" (such village) and by that name they and their successors shall and may have perpetual succession and shall be persons in law capable of suing and being sued in all courts and in all actions within the jurisdiction of the State of New York, and that they and their successors may have a common seal and may change and alter the same at their pleasure, and also that they and their successors by the name of the Fire Department of —— (such village) shall be in law capable of purchasing, holding and conveying any estate, real or personal, for the use of said corporation, provided the amount of real and personal estate so held shall not exceed at any time the sum of twenty thousand dollars. Id. § 2.

ELECTION OF DELEGATES AT REGULAR MEETING TO CHOOSE CHIEF ENGINEER AND ASSISTANTS.—The several hose, hook and ladder and engine companies constituting this corporation, shall at their regular meeting to be held on the first Tuesday in April in each year, elect by ballot three delegates from each of their respective companies to meet in convention at the council room of the department, on the Thursday following at two o'clock in the afternoon, and after choosing one of their number as chairman, and another as secretary, shall select separately by ballot suitable persons, electors of such village for chief engineer and first and second assistant engineers, and the individuals receiving the greatest number of votes for those several offices shall be recommended to the board of trustees of said village for their appointment. Id. § 3.

APPOINTMENT BY TRUSTEES.—The board of trustees of such village upon such recommendation shall appoint a chief engineer and two assistant engineers, who shall be electors of said village and who shall hold their offices during the pleasure of said board. Id. § 4.

DUTIES AND POWERS OF CHIEF ENGINEER.—The chief engineer shall preside over all meetings of the council and of the department, both regular and special; shall have exclusive control of the department at all fires, inspections

and reviews; shall have charge of the hose and engine houses and all apparatus intrusted to the care of or belonging to the department; shall have authority over all employes of the department; shall hold them strictly to account for neglect of duty, and may suspend or discharge the same at any time, subject to the approval of two-thirds of the council, at the next meeting; shall issue through the secretary, upon application, a certificate of the time of service of any member of the department, provided such time shall have been granted by the council, and shall give to the officers of the council, immediately after their election at the annual meeting of the council or at any special election, a certified warrant of their election, countersigned by the secretary. Id § 5.

ELECTION OF WARDENS; COUNCIL.—The different hose, hook and ladder and engine companies shall, at their regular meeting to be held on the first Tuesday in April of each year, elect by ballot two of their number, to be known and designated as wardens, who are electors of such village, who with the chief engineer as president, and his assistants as vice-presidents, shall constitute a "council," and shall exercise such powers as are hereinafter committed to them; which appointment shall not exempt them from their other duties as firemen. Id. § 6.

MEETING AND ORGANIZATION OF COUNCIL; VACANCIES.—The said council shall meet on the third Tuesday in April of each year and choose out of their own body a secretary, treasurer and collector, to hold their respective offices until others are appointed in their stead, agreeable to the provisions of this act; and in the case of any vacancy in the office of warden, such vacancy shall be filled by the company in which it occurs, at a special election held for that purpose; and in case of a vacancy occurring in the office of secretary, treasurer or collector, such vacancy shall be filled by the council at the next meeting. Id. § 7, as am'd. L. 1894, c. 161.

POWERS OF COUNCIL; QUORUM.—Two-thirds of said council shall constitute a quorum, and shall have full power to make and prescribe such laws, ordinances and regulations not inconsistent with the laws of this State, or ordinances of such village as shall be by them deemed necessary for the proper management of the affairs, and the disposition of the funds of the said corporation; and shall have power to appoint all meetings, both regular and special (except the one hereinafter provided for) and shall also designate one or more days in each and every year as days of public exercise, inspection and reviews, and all such other matters as appertain to the business and purposes for which the said corporation is by this act instituted, and no other. Id. § 8.

SPECIAL ELECTIONS.—And in case any election shall not be held on the day when pursuant to this act it ought to have been held, the said corporation shall not on that account be deemed dissolved, but it may be lawful to hold

such election on any subsequent day agreeable to the ordinances and regulations of said corporation. Id. § 9.

ANNUAL MEETING OF FIRE COMPANIES.—The firemen constituting the several hose, hook and ladder and engine companies of this corporation, shall hold a general meeting at the council room, or such other place as the council may direct, on the first Friday following the first Tuesday in April of each and every year, at seven o'clock in the afternoon, to hear the report of the secretary and treasurer, and to transact such other business as may be deemed for the interest of this corporation. Id. § 10.

REMOVAL OF MEMBERS FROM VILLAGE; CERTIFICATE OF SERVICE.—The members of such fire department, in case of removal from such village and becoming members of a fire department of any other village or city within this State, shall be allowed the time they have served as firemen in such village, in the village or city to which they have removed, upon producing a certificate of such service, signed by the chief engineer and secretary and bearing the seal of such corporation hereby authorized and when such fireman shall have served for so long a time thereafter as shall make his whole term of service the same as required by the statute laws of this State, he shall be entitled to all the privileges and exemptions secured to firemen in this State for such services. Id. § 11.

CERTIFICATE EVIDENCE.—A certificate signed by the chief engineer and secretary and bearing the seal of this corporation, declaring the term of service of said members to have been fully completed, as required by the laws of this State, shall be sufficient evidence to entitle him to all the privileges and exemptions provided for by law. Id. § 12.

EXEMPTION FROM JURY AND MILITIA DUTY.—Every person who * * may become such fireman after the passage of this act and shall serve as such for five years thereafter, shall during and forever after such service be exempted from serving as a juror in any of the courts of this State, and from all militia duty except in cases of insurrection of invasion. L. 1848, c. —, 188, § 1.

EVIDENCE OF EXEMPTION.—1. During Service.—Where the applicant is under the rank of foreman, the certificate of the foreman, or other chief officer of the company to which the applicant belongs, accompanied with proof, by affidavit, of the genuineness of the signature thereof.

2. AFTER FIVE YEARS SERVICE.—The certificate of the chief engineer of the fire department of the * * village where the service was performed, or of the * * president of the * * village, accompanied with proof, by affidavit or acknowledgment, of the genuineness of the signature thereof, which certificate so proved, accompanied by a notice endorsed thereon that the applicant claims exemption from jury duy for a period specified therein may be filed in the office of the clerk of the county where such applicant resides. From the date of such filing such applicant shall not be liable to perform any jury duty in the county where such certificate and notice are filed during the period specified in such notice; and the county clerk shall thereupon erase the name of such applicant from the jury lists and destroy the ballot before drawing another jury. Such certificate must be dated within three

months prior to the time of presenting it, and filed with the clerk of the court to which it is presented. In case said certificate and notice is not so filed the applicant shall not be entitled to exemption. Code Civil Procedure, § 1031, as am'd L. 1886, c. 55.

PAYMENT OF TAX BY AGENTS OF FOREIGN FIRE INSURANCE CORPORATIONS TO FIRE DEPARTMENTS.—Except in the cities of New York and Buffalo they shall be paid to the treasurer of the fire department of every city or village of this state, whether incorporated or unincorporated, having a fire department, company or organization, for the use and benefit of such department, or to the treasurer of such fire department within the fire limits, as established by law, of an unincorporated village, and when no treasurer of a fire department exists, then to the treasurer or other fiscal officer of such city or village, or in case of an unincorporated village to the supervisor of the town in which such village is situated who, for the purposes of this act, shall have the same powers as the treasurers of fire departments, on the first day of February of each year, by every person who shall act as agent for or on behalf of any foreign fire insurance corporation, association or individuals which insure property against loss or injury by fire, the sum of two dollars upon the hundred dollars, and that rate, upon the amount of all premiums which during the year or part of a year ending on the last preceding thirty first day of December shall have been received by such agent or person, or received by any other person for him, for any insurance effected or procured by him as such agent or broker against loss or injury by fire upon property situate within the corporate limits of such a city or village, or within the fire limits of such unincorporated village. L. 1892. c. 690 § 133.

UNDERTAKING OF AGENT.—No person shall, as agent for any such foreign insurance corporation, association or individuals, effect any insurance upon any property situate in any city or village of this state upon which the sums specified in the preceding section are required to be paid, or as such agent procure such insurance to be effected, until he shall have executed and delivered to the officer to whom such account is to be rendered and such payments to be made, a bond to such fire department in the penal sum of five hundred dollars, with such sureties as such treasurer, supervisor or other fiscal officer shall approve, with a condition that he will annually render to such treasurer, supervisor or other fiscal officer, on the first day of February in each year a just and true account, verified by his oath that the same is true, of all premiums which, during the year ending on the thirty-first day of December preceding such report, shall have been received by him or any other person for him, for any insurance against loss or injury by fire upon property situated in such city or village, which shall have been effected or procured by him to have been effected by any such corporation, association or individuals, and that he will annually, on the first day of February in each year, pay to such treasurer or supervisor or other fiscal officer two dollars upon every hundred dollars, and at that rate upon the amount of such premiums. Any such corporation, association or individual, having authority to transact business in this state, on filing a bond in the penal sum of two thousand five hundred dollars with the superintedent of insurance that it will make its account and pay

the sums so required to be paid, may effect such insurance in any city, town or village wherein it has no agent. Id. § 134.

PENALTY FOR REFUSAL TO PAY.—Every such person who shall effect any such insurance without having executed and delivered such bond, shall, for each offense, forfeit two hundred dollars, for the use and benefit of the fire department of such city or village, to be collected by and in the name of the fire department, treasurer or chief fiscal officer of the city or village in which the property insured is situated. The treasurer or chief fiscal officer of any city or village having no incorporated firemen's relief or benevolent society receiving any money under the laws of this state, shall, on or before the fifteenth day of February in each year, apportion and pay over all such moneys so received to the treasurers of such of the several fire companies as are duly recognized by the common council, trustees or supervisors of such city or village.

If he shall neglect or refuse to perform any or all of the duties required by this section, he shall forfeit the sum of two hundred dollars for every such neglect or refusal for the use and benefit of the fire department of such city or village, and the foreman of any fire company may sue for and maintain an action in the name of and for the benefit of such company for its proportion of the penalties prescribed by this section. Id. § 135.

PENALTY FOR REFUSAL TO EXHIBIT FOREIGN FIRE POLICIES.—Every person whose property shall be insured in violation of section 135 of this chapter, and every person having the care or charge of property so insured, or of policies of insurance placed in violation of such section, as agent or trustee for another, who shall refuse or neglect to exhibit to the officer entitled by section 134 of this chapter to receive the pre cent of premium in such section provided, all policies so placed upon such property, or shall neglect or refuse to give such officer full information as to when, by whom, and in what corporation or corporations such property shall be so insured, and the name of the agent, broker or other person connected with the effecting of such insurance, upon demand being duly made by such officer shall become liable to an action by and in the name of the fire department, organization or company of which such officer shall be the treasurer, or the sum of one hundred dollars for each such neglect or refusal.

All persons acting as brokers between any such agent or any such corporation and the assured, shall, within ten days after effecting any insurance specified in section 135, notify the officer entitled to receive the tax upon the premium upon such insurance of the fact of such insurance, together with the precise location of the property, the name of the insurer and the amount of the premium to be paid by the assured. Any broker willfully neglecting or refusing to comply with the provisions of this section, shall be liable to a like action and like penalty brought in the like manner hereinbefore provided. Actions brought under this section must be tried in the county in which the property alleged to be so insured is situated.

All moneys received pursuant to this section shall be apportioned and paid over in the same manner as provided in the preceding section of this chapter for the apportionment and payment of moneys received pursuant to such section and under a like penalty. Id. § 136.

IN UNINCORPORATED VILLAGES.

FIRE DISTRICTS IN UNINCORPORATED VILLAGES.—The board of supervisors have power to establish a fire district in any unincorporated village in this State, and to authorize such district to procure a supply of water, to purchase apparatus for the, extinguishment of fires therein, and to rent or purchase suitable buildings for the keeping and storing of the same, upon the written petition duly verified and signed by more than one-half the taxable inhabitants of said district, whose names appear upon the last preceding assessment roll of the town in which such district is located, as owning or representing more than one-half of the taxable property of the proposed district; and to provide for the assessment, levy and collection of the cost thereof upon such district in the same manner, at the same time and by the same officers as the taxes of the town in which such village is located are assessed, levied and collected. But if it shall appear from the last preceding assessment roll of the town in which such proposed district is located that more than one-half of the taxable property within said proposed district is owned by non-residents of said proposed district, a fire district may be established, as hereinbefore provided, upon the petition duly verified and signed by more than one-half of the taxable inhabitants of such proposed district whose names appear on the last preceding assessment roll of said town as owning or representing more than one-half of the taxable property in said district owned or represented on said roll by residents thereof. No fire district in any unincorporated village in this State shall extend in any direction to exceed one mile from the nearest engine-house, hose-house or hook and ladder-house located within the limits of such unincorporated village, nor shall any property be entitled to the protection of, or liable to be assessed, or taxed, for the support of any fire department of such village unless the same lies wholly within the fire district established by this act.

FIRE COMMISSIONERS.—Also to provide for the election, by the legal voters of such fire district, of not less than three nor more than five officers, residents of said district, for terms not exceeding five years, who shall be designated fire commissioners, and the filling of vacancies therein, and who shall take title to and hold in trust for the district, for the fire purposes aforesaid, and with power to make all contracts for the aforesaid purposes within the appropriations voted by the resident taxpayers of said district. Also to provide for the election in like manner of a treasurer of said district and the filling of vacancies therein, who shall be entitled to receive and have the custody of the funds or moneys of said district, and pay out the same for the purposes aforesaid, upon the order of the fire commissioners, or a majority of them, which treasurer shall be elected for the term of three years, and shall, before entering upon the duties of his office, give such security as the board of supervisors may require. L. 1875, c. 482, § 34, as am'd L. 1890, c. 180.

THE TOWN BOARD MAY APPOINT FIRE COMPANIES, ETC.—The town board of any town may appoint, in writing any number of inhabitants of their town which they may deem necessary, to be a fire company for the extinguishment of fires in their town; but no such company, as herein pro-

vided shall be formed in any incorporated city or village. Each fire company thus formed, shall choose a captain and clerk thereof, and may establish such by-laws and regulations, as may be necessary to enforce the performance, by such firemen of their duty; and may impose such penalties, not exceeding five dollars for each offense, as may be necessary for that purpose. Such penalties may be collected by and in the name of the captains, in any court having cognizance thereof, and when collected, shall be expended by the companies, for the repair and preservation of their engines and apparatus. All vacancies which may, at any time, happen in such companies by death, resignation, or otherwise, shall, from time to time, be filled by the town board. The electors of any highway district in which any town fire company shall have their headquarters, at a special meeting lawfully called by the town clerk, who is hereby authorized to call such special meeting, may vote by ballot a sum of money, not exceeding four thousand dollars, for the purchase of a fire-engine and apparatus. And whenever said electors shall so vote said money for the purchase of a fire-engine and apparatus, the commissioner of the highway may contract for and purchase for such district a good and sufficient fire-engine and apparatus at a price not to exceed the sum so voted, which engine and apparatus shall be the property of said highway district, but may be used and cared for by such fire company. The purchase price of said fire-engine and apparatus shall be assessed and levied upon the property of said district and collected as other town charges are assessed, levied and and collected, except that the amount thereof shall be put in a separate column upon the tax roll, and the board of supervisors of the county shall cause the sum as certified by the town board to be levied upon the taxable property of such highway district. L, 1891, c. 254.

ORGANIZATION OF FIRE, ETC., COMPANIES.—Any ten or more persons, residents of any unincorporated village of this State who shall desire to associate themselves together in a corporate capacity as a fire, hose, or hook and ladder company, or as a department consisting of two or more of such companies, may make, sign and acknowledge, before any officer authorized to take the acknowledgement of deeds in this State, and file in the office of the Secretary of State, and also in the office of the clerk of the county in which the office of the proposed company shall be situate, a certificate in writing in which shall be stated the name or title by which said company shall be known in law, the particular business and object of said incorporation, the name of the unincorporated village in which said company or department proposes to act, and the name of the county in which said village is situated, and the number of trustees, directors or managers to manage the same, and the names of the trustees, directors or managers for the first year of its existence and the number of years said company or department shall exist, not to exceed fifty years, but such certificate shall not be filed unless there shall be annexed thereto a copy of a resolution of the board of the town officers of the town in which said village is situated, consenting to such incorporation and certified by the clerk of said town to be a true copy thereof; provided that such corporation shall engage in, or conduct only such business as properly belongs to the fire, hose, or hook and ladder

companies, and only in the village or town named in the aforesaid certificate. L. 1887, c. 315, § 1.

SAME: RIGHTS, DUTIES AND POWERS.—Upon filing a certificate as aforesaid, together with such certified copy of the resolution of approval, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall, by virture of this act be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be capable in law of suing and being sued; and they and their successors, by their corporate name, shall, in law, be capable of taking, receiving, purchasing and holding real estate for the purposes of their incorporation, and for no other purpose to an amount not exceeding the sum of thirty thousand dollars in value, and personal estate for like purposes to an amount not exceeding the sum of fifty thousand dollars in value; to make by-laws for the management of its affairs not inconsistent with the constitution and laws of this State or of the United States; to elect and appoint the officers and agents of such corporation for the management of its business, and to allow them a suitable compensation, and to prescribe the qualifications of membership of said company or corporation. Id. § 2.

ELECTION OF TRUSTEES; VACANCIES.—The company or department so incorporated may annually elect from its members its trustees, directors or managers, at such time and place, and in such manner as may be specified in its by-laws, who shall have the control and management of the affairs and funds of said company or department and a majority of whom shall be a quorum for the transaction of business. Whenever any vacancy shall happen among said trustees, directors or managers, by death, resignation or neglect to serve, such vacancy shall be filled in the manner provided in the by-laws of said company or department. Id. § 3.

ELECTION, WHEN NOT MADE ON DAY DESIGNATED.—In case it shall at any time happen that an election of trustees, directors or managers shall not be made on the day designated by the by-laws, said company or department shall not fot that cause be dissolved, but it shall and may be lawful on any other day to hold an election for trustees, directors or managers, in such manner as said company or department may determine. Id. § 4.

MAY RECEIVE PROPERTY BY WILL; PROVISO.—Any corporation formed under this act may take, receive or hold any property, real or personal, by virture of any devise or bequest contained in any last will and testament, but not to increase the value of its property in excess of the amount fixed by section two of this act; provided that no person, leaving a wife, child or parent shall devise or bequeath to such corporation more than one-fourth of his or her estate, after payment of all debts existing against said estate, and such devise or bequest shall be valid to the extent of such one-fourth only. Id., § 5.

LIABILITY OF TRUSTEES FOR DEBTS.—The trustees, directors or managers of any corporation organized under the provisions of this act shall be jointly and severally liable for all debts due from said corporation, contracted while

they are such trustees, directors or managers; provided said debts are payable within one year from the time they shall have been contracted; and provided further, that a suit for the collection of the same shall be brought within one year after the debt shall become due and payable. Id. § 6.

ANNUAL REPORT.—It shall be the duty of the trustees, directors or managers of all corporations formed under this act, or a majority of them, on or before the fifteenth day of January in each year, to make and file in the county clerk's office, where the certificate of incorporation is filed, a certificate under their hands, stating the names of the trustees, directors or managers and officers of such corporation, with an inventory of the property and effects and liabilities thereof, with an affidavit of said trustees, directors or managers, or a majority of them, of the truth of such certificate and inventory; and also a like affidavit that such corporation has not been engaged, directly or indirectly, in any other business than such as is set forth in the certificate of incorporation. Id., § 7.

GENERAL POWERS OF CORPORATION.—Every corporation formed under this act shall possess the general powers conferred by and be subject to the provisions and restrictions of the third title of the eighteenth chapter of the first part of the Revised Statutes; and every active foreman who shall be a member of any department or company organized under the provisions of this act shall be entitled to such exemptions as are now provided by chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, entitled "An act for the incorporation of villages," and the acts amendatory thereof. Id., § 8.

CEMETERIES.

TAXPAYERS MAY DIRECT TRUSTEES TO BUY GROUND FOR CEMETERY.—The taxpayers of any incorporated village, at any meeting thereof lawfully convened, may, by resolution, direct the trustees of such village to purchase suitable lands for a burying ground for such village, or lands in addition to any burying ground now owned by said village. upon such terms and conditions, not inconsistent with this act, as such meeting shall prescribe; but the whole expense of purchasing such ground or additional lands in any village, fencing the same, and putting it in proper condition to be used as a burying ground, shall not exceed ten thousand dollars, unless the population of the village shall exceed four thousand persons, nor more than twenty thousand dollars in any case. And the title of such burying, ground, when so purchased, shall be vested in such village by its corporate name, and shall be inalienable, except in the manner and for the purposes hereinafter mentioned. L. 1847, c. 209, § 1, as am'd L. 1872, c. 696.

TAX.—No such resolution shall have any force or effect, unless it shall provide for imposing, levying and collecting a general tax upon the taxable property in such village, sufficient to pay all the expenses of such purchase, and fencing the lands so purchased, and putting them in a proper condition to be used for a burying ground, to be levied and collected within one year, or in equal portions within three years from the time of the adoption of such resolution, which so far as respects the levying and collecting of such

tax, shall not be altered. And every such tax shall not be altered.

And every such tax shall be collected in the manner, and within the time specified in this section, and when so collected in the manner, and within the time specified in this section, and when so collected, shall be applied to the purpose in this section specified, and to no other. Id. § 2.

NOTICE FOR MEETING.—No such resolution for the purchase of a burying ground, and for imposing, levying and collecting such tax, shall be passed at any such meeting by virtue of the provisions of this act, unless notice of an intention to move for the adoption of such a resolution, at such meeting, shall be given, previous to holding the same, by publishing such notice at least once in each week, for four successive weeks, in a public newspaper, published in the village in which such meeting is to be held, or in case no newspaper be published in such village, by posting up such notice in at least ten public places in such village, at least thirty days before the time of holding such meeting. And before any such resolution shall be adopted, proof by affidavit of publishing or posting such notice as herein provided, shall be filed with the trustees of such village. Id. § 3.

ORDINANCES; PENALTIES.—Such trustees shall from time to time make such ordinances as they, shall think proper, not inconsistent with the laws of this State, or the United States, in respect to such burying ground, the conveyance of lots therein to individuals for the purpose of interments, interments in such lots and portions of such ground not so conveyed, and the management of such ground; and may enforce such ordinances by penalties not exceeding twenty dollars, to be sued for and recovered with costs, in the corporate name of the village, for its use, in any court having jurisdiction thereof. Id. § 4.

BURIAL LOTS, DEEDS, ETC.—Such burying ground shall be laid out into suitable lots, pursuant to the ordinances of such trustees, and they may, on such terms and conditions as shall be thereby prescribed, and for such prices as shall be agreed to by them, on behalf of such village, convey any of such lots to individuals, for the sole purpose of making interments therein, by conveyances which may be acknowledged and recorded as other conveyances of real estate, and which shall be recorded by the clerk of such village in a suitable book to be kept by him; but no such conveyance shall be executed for any such lot until the price thereof shall be paid to such village. Id. § 5.

POTTERS FIELD.—It shall be the duty of the trustees of every village in which there shall be a burying ground, purchased by means raised by a general tax, upon the taxable property in such village, to reserve a reasonable portion of such ground for the interment of strangers, and other persons who may die in such village, under such circumstances that it would be unreasonable to require payment for the privilege of making such interment. Id. § 6.

RECORD OF INTERMENTS.—It shall be the duty of the trustees of every village in which there shall be a burying ground so purchased, to cause an accurate record to be kept of every interment therein, and the time when made, and the name, age and place of birth of every person buried

therein, when these particulars can be conveniently ascertained; and such record shall be so kept as to show the lot and part of the lot in which such interment shall be made. Id. § 7.

TAX OF $150 ANNUALLY FOR IMPROVEMENTS.—A general tax, not exceeding one hundred and fifty dollars in any one year, may be imposed, levied and collected, on the taxable property in any village owning a burying ground, for the purpose of improving the same; such tax shall be imposed in the manner prescribed by law, for imposing such general taxes in such village, as are now authorized by law to be imposed thereon for village purposes, and when collected, shall be applied to improving such burying ground. Id. § 8.

ACQUISITION OF LAND FOR CEMETERY PURPOSES.—It shall be lawful for trustees of any incorporated village in this State (although such cemetery is diconnected from and out of the limits of any village) to acquire by deed, devise or otherwise, such land as it may require for burial purposes, and the proper ornamentation in connection therewith, or land for such purposes, in addition to such land as it may already hold or is authorized to hold, and to hold, use and possess the same in like manner, with the like rights, privileges and authority, and subject to the like duties and liabilities as apply to the other lands so held by said village. (Does not apply to the counties of Kings, Queens, and West Chester.) L. 1870, c. 760, as am'd L. 1892, c. 518.

CONDEMNATION OF LANDS.—If the said board of trustees of such village shall be unable to agree with the owner or owners of such lands for the purchase thereof, the said board of trustees of such village may proceed to acquire the title thereto in the manner, so far as is applicable, prescribed by chapter 140 of the laws of 1850, entitled "An Act to authorize the formation of railroad corporations, and to regulate the same," and the several acts amendatory thereof and supplementary thereto. The amount paid for such lands by such common council or board of trustees of a village as aforesaid, and all the expenses attending the same, with the expenses of fencing and improving the same shall be assessed and collected by a general tax upon all the taxable property of such village, in the same manner as any other village taxes are assessed and collected. * * L. 1870, c. 760, as am'd L. 1873, c. 452. L. 1875, c. 206.

TRUSTEES MAY BORROW MONEY.—The board of trustees of said villages are authorized to borrow the sum of money provided for by the section of this act, and in anticipation of the tax aforesaid, or so much thereof as may be necessaryto purchase the burial lot as aforesaid, and procure a good title in fee to the same. L. 1870, c. 760. L. 1873, c. 452. L. 1875, c. 206.

CEMETERY COMMISSION; POWERS AND DUTIES.—The trustees of any village are hereby authorized to appoint a cemetery commission of not less than five nor more than nine resident freeholders of said village, who shall during their term of office, have exclusive control and managementof the laying out, beautifying and improving of any lands which may be purchased by said trustees as provided by section 1 of this act, hereby amended. The members of

such commission shall hold their office for five years from and after their appointment, and when vacancies occur in such commission the same shall be filled by said trustees from the freeholders of said villages. All moneys appropriated by said trustees for the improvement of such lands, shall be placed in the hands of said commission to be expended by them in such laying out, beautifying and improving; and said commission shall, on the first day of March in each year during their term of office, make a report by items of their expenditures, and stating the objects thereof, to said trustees, which report shall be in writing, signed by a majority of the members of such commission, and verified by their oaths. L. 1871, c. 696.

MAY RECEIVE BEQUESTS.—Every corporation which shall, under authority of law, hold, occupy and use lands for a cemetery and burial place, may receive by gift or bequest any moneys or personal property for the improvement and maintenance of such cemetery; or the maintenance, repair, preservation or ornamentation of any private plat, vault, monument, tomb, or other structure in such cemetery, according to the terms of such gift or bequest. L. 1881, c. 139.

SEWERS.

APPLICABLE TO ALL VILLAGES.—The provisions of this act shall apply to any incorporated village in this State, whether such villages shall have been incorporated under a general or by a special law, and the powers hereby conferred upon any such village are additional and supplementary to all other powers possessed by any such village under any general or special law, but all proceedings taken under this act shall be specified to be taken under the general village sewer act of 1889. L. 1889 c. 375 § 1. 28, St. Rep., 391; 52 Id. 606.

SEWER COMMISSIONERS, WHO MAY BE, ETC.—In any such village not having a board of sewer commissioners or any officers other than the board of village trustees authorized to perform the general duties of sewer commissioners, the president and board of trustees of such village may by the concurring vote of at least two thirds of their entire number, if more than five, and by a majority of the entire number of five or less, appoint five citizens of said village, who shall be residents and taxpayers thereof, to be sewer commissioners of said village. Such sewer commissioners shall be appointed for such terms of office respectively that the term of office of one such commissioner shall expire every year, and at the regular meeting of said board of trustees, next preceeding the expiration of the term of office of any sewer commissioner so appointed, the successor of such commissioner shall be appointed in like manner for a term of five years. A vacancy occurring in the office of any sewer commissioner so appointed otherwise than by expiration of term shall be filled in like manner for the balance of the unexpired term. Such appointment shall be so made that not more than three of such commissioners in office at any other time shall have been appointed from the members of the same political party. The sewer commissioners so appointed shall be officers of said village and shall constitute the board of sewer commissioners of such village and shall receive no compensation for their services as such commissioners. The commissioners so appointed shall an-

nually elect one of their number to be president, and a suitable person to be clerk of such board of sewer commissioners, who may be paid for his services a sum to be fixed by such board, not exceeding two hundred dollars per year, to be paid as other village expenses are paid. Said board may make by-laws for the conduct of their proceedings. Id. § 2 as am'd. L. 1891 c. 306.

MAP OF SEWER SYSTEM.—In case a plan and map of a permanent system of sewerage for any such village shall not have been approved by the state board of health, the board of sewer commissioners of any such village, whether heretofore appointed or appointed under this act, shall, before taking any proceeding for the construction of any sewers under the provisions of this act, cause such a map and plan to be made of a permanent system of sewerage for such village, with such specifications of dimensions, connections and outlets or sewerage disposal works, when necessary, as shall be approved by and filed with the State board of health; and for that purpose the board of sewer commissions may employ a competent engineer and such other persons as said board of sewer commissioners may deem necessary, but the total expense thereof shall not exceed two thousand dollars, and the amount of such expenses shall be included in the next annual tax levy of such village, as a part of the ordinary expenditure of the village, and shall be paid by the village treasurer upon the order of the board of sewer commissioners, signed by the president, and countersigned by the clerk of such board. When such map and plan shall have been so completed and approved, a copy thereof shall be open to public inspection in said village, and notice thereof shall be published once a week for two weeks in two newspapers published in said village, or in one newspaper, if there be but one so published, or if there be no newspaper published in said village, then in a newspaper published in the place nearest to said village in which a newspaper is published. Changes may be made in said map and plan of such system, provided each change shall be first approved by and filed with the state board of health.

The said board of sewer commissioners may agree or contract with the proper authorities of any other village or town, subject to the provisions of this act, jointly with such other village or town, to construct, maintain, operate or use outlets, disposal works and sewers. Id. § 3, as am'd L. 1892, c. 349.

QUESTION SUBMITTED AT SPECIAL ELECTION.—In case the board of sewer commissioners of any such village shall at any time propose to construct the whole or any portion of such sewer system at the expense of the village at large, said board shall submit the question of the construction thereof, including the expense of constructing and maintaining sewage disposal works, to a special election as hereafter provided. Said board shall cause plans and specifications of such system or portion thereof proposed to be constructed and an estimate of the maximum and minimum cost thereof to be made, and to be open to public inspection. The said board may, by resolution, declare what proportion of the expense of such sewer system should be borne by the village at large, and what proportion of such expense ought to be borne by local assessment upon property specially benefitted thereby, which proportions res-

pectively, shall be adjusted as equitably as may be with reference to the benefits to be conferred thereby upon the village at large and upon property specially benefitted; and in such case the said board of sewer commissioners shall describe with reasonable certainty the area of territory within which such local assessments shall be made. Thereupon such board of sewer commissioners may, by resolution, declare their intention to construct the same, which resolution shall be published in the manner specified for the publication of the notice provided in the third section of this act, and which resolution shall specify the line of the sewers so proposed to be constructed, the estimated maximum and minimum expense thereof, and the proportion of said expense to be assessed upon the village at large, and the proportion of such expense to be paid by local assessments upon the property owners specially benefitted, and a description of the area of such local assessment, and the place and time at which a special election shall be held in said village for the purpose of determining whether the same shall be constructed. Said special election shall be held at the time and place specified in said resolution so published, and shall be conducted in all respects as special elections for like purposes are required to be conducted by the charter of said village, if such village shall have been incorporated by a special act providing for the holding of such special elections, so far as such provisions are applicable; otherwise such special election shall be conducted in all respects as special elections for passing upon questions of raising money for extraordinary expenditures are required to be conducted by chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, so far as applicable, or in lieu of said special election as hereinbefore provided, whenever a petition shall be presented to the board of sewer commissioners of any village in this State, signed by the owners of at least sixty per centum in value of the assessable lands and buildings as shown by the assessment roll of said village, and requesting in said petition that the said board of sewer commissioners shall construct a sewerage system in said village at the expense of the village at large, then the said board of sewer commissioners shall cause at least ten days' notice to be given to the taxpayers of said village of a time and place where said board of sewer commissioners will meet and hear persons interested for and against the construction of said sewerage system; such notice shall be served by the publication thereof in a newspaper published in said village to be designated by said board of sewer commissioners, once in one week, at least ten days before the date of said meeting, and in case no newspaper is published in said village, then said notice shall be served by posting said notice in five public places in said village at least ten days before the date of such meeting. At said meeting said board of sewer commissioners shall take proof as to persons signing said petition for the construction of sewers, being the owners of a sufficient quantity of lands and buildings in said village as herein required, and after hearing such proofs that a petition for such system of sewerage has been signed by persons owning at least sixty per centum in assessed value of all lands and buildings in said village in which a sewerage system is petitioned for, their decision shall be final and conclusive as to such fact and question. If after hearing

had in accordance with such notice, said board of sewer commissioners shall decide to construct said system of sewerage, the said board of sewer commissioners shall proceed to enter into contracts for the construction of said sewerage system in the manner prescribed by section six of this act, and to apportion and assess the expense thereof upon all the lands in the village at large in like manner and with like effect as herein provided in section seven of this act. Id. § 4, as am'd L. 1893, c. 422.

NEGATIVE VOTE.—In case a majority of the votes cast at such special election shall be against such resolution, then no other shall be called by such board of sewer commissioners during the same fiscal year. Id. 5.

PROCEEDINGS IF VOTE FAVORABLE.—In case a majority of the votes cast at any such special election shall be in favor of such resolution, then the said board of sewer commissioners shall advertise for proposals for constructing such portion of said system of sewerage and for furnishing materials for the same, either under entire contract, or in parts or in sections, under special contracts, as they shall deem for the best interests of the village, in the manner specified in the third section hereof for the publication of the notice therein provided. and in such other newspapers as said board of sewer commissioners shall deem advisable. The said board of sewer commissioners may require a bond or deposit to be made by each party submitting such proposals, as a guarantee of the good faith thereof, such deposit to be forfeited to the village, or the liability upon each bond to accrue in case the party submitting such proposals shall refuse to enter into a contract in accordance therewith, in case such proposals shall be accepted. Said board of sewer commissioners shall have the power, when for any reason they deem it advantageous to the interests of such village, to reject all proposals and bids made them, and may contract with other than the lowest bidder for such material and work or any part thereof, and may, whenever they deem necessary, re-advertise for the same. Said board of sewer commissioners shall require any party that shall contract for doing said work or furnishing the said materials, or any part thereof, to give sufficient security, to be approved by them, for the faithful performance of such contract or contracts or to indemnify and save harmless said village and the said board of sewer commissioners from any damage or loss from which it or they may become liable by reason of any negligence or carelessness on the part of said contractor, his assigns, agents, servants or employes, or for improperly grading any and all excavations, trenches, accumulations or obstructions caused by or made in the course of the construction of the portion of the sewers covered by said contract or contracts, or from neglecting or refusing to properly restore the surface of any highway, street, alley, lane or place through which such sewers or drains shall have been laid, and to restore to a proper and safe condition; but no contract shall be entered into for the construction of such portion of said sewers specified by said resolution by which a greater amount shall be agreed to be paid there'or than the maximum sum in such resolution specified. Id. § 6.

APPORTIONMENT OF EXPENSE; NOTICE OF ASSESSMENT; APPEAL.—The proportion of the expenses of constructing

such sewer specified in said resolution so published as aforesaid to be assessed upon the land specially benefitted thereby shall be apportioned and assessed upon the owner or owners of lands within the area of local assessment, as aforesaid, in proportion as nearly as may be to the benefit and advantages which each will secure thereby, and such apportionment and assessment shall be binding upon such owner or owners, and shall be a lien upon such lands, to be collected in the same manner as other village taxes and assessments are collected, but no such apportionment and assessment shall be made without at least six days' notice of the time and place of such apportionment and assessment to each of such land-owners, whose residence is known, which notice shall be served personally by delivering a written copy thereof to each of such persons who can with reasonable diligence be found in said village, or otherwise by mail addressed to the last known postoffice address of such person. After the assessment and apportionment herein before provided for shall be completed, the same or a copy thereof shall be left with the village clerk, and there remain for a period of ten days. The said board of sewer commissioners shall, after they have delivered such apportionment and assessment to said village clerk aforesaid, give public notice by posting the same in at least three of the most public places in such village, stating that such assessment and apportionment have been made and completed, and the officers to whom the same shall have been delivered, and the place where the same will be open to public inspection for ten days thereafter. Any person who may feel aggrieved by said apportionment and assessment may, before said ten days' notice shall expire, appeal therefrom to the county judge of the county in which such village is situated, by serving at least ten days' notice of such appeal, on the president or clerk of the board of sewer commissioners, and the said county judge shall thereupon appoint three disinterested freeholders of said village, not residents of such area of local assessment, who shall examine the same and all the lots and real estate upon which the same is made, and fix and determine the assessment thereon, and their determination shall be final and conclusive. The fees of the commissioners so appointed by the county judge, not exceeding five dollars per day, shall be paid as an ordinary village expenditure in case their determination shall be more favorable to the appellant, in a sum not less than twenty dollars than the assessment made by the board of sewer commissioners, otherwise the expense of such commissioners shall be paid by such appellant. Id. § 7.

PROCEEDINGS ON PETITION BY LAND-OWNERS.—Whenever a petition shall be presented to the board of sewer commissioners of any village signed by the owners of at least five hundred lineal feet of any of the lands fronting on any street, lane, or alley through which a sewer is projected, on said plan of the sewerage system of such village for the construction thereof, to be paid for wholly by the owners of the lands especially benefitted, then the said board of sewer commissioners shall cause at least ten days' notice to be given to the owners of lands fronting on such portion of said street, lane, or alley of a time and place where said board of sewer commissioners will meet and hear persons interested for and against the construction of such portion of said sewer system. Such notice shall be served

by the publication thereof in a newspaper of said village to be designated by said board of sewer commissioners, once in one week at least ten days before such meeting, and in case no newspaper is published in said village, by posting said notice in five public places in said village at least ten days before such meeting. At such hearing said board of sewer commissioners shall take proof as to the persons signing said petition being the owners of a sufficient quantity of lands fronting on said street, as herein required, and their determination after hearing such proofs that a petition for such sewer has been signed by persons owning at least five hundred lineal feet of the lands fronting on any street, lane, or alley through which a sewer is projected, shall be final and conclusive as to such fact and question. If, after hearing had in accordance with such notice, the said board shall determine to construct such portion of said system of sewerage the said board shall proceed to enter into contracts therefor in the manner prescribed by the sixth section of this act, and to apportion and assess the expense thereof upon the property specially benefitted thereby, in like manner and with like effect as herein provided in the seventh section of this act. In case it is desired to construct any sewer along any street, lane, or alley which is less than five hundred feet in length, a petition signed by the owners of one-half of the lands fronting on the line of the said proposed sewer shall be sufficient for all the purposes of this act, and shall authorize the board of sewer commissioners to proceed and cause the same to be constructed as herein before provided. In all cases where a petition is presented for the construction of a sewer through different streets, lanes or alleys through which a sewer is projected on said plan of the sewerage system of such village, said sewer for all the purposes of this act shall be deemed as one sewer, and such different streets, lanes or alleys, shall be deemed and considered as one continuous street, lane or alley. Id. § 8. as am'd L. 1891, c. 316. 69 Hun. 95; 52 St. Rep. 606.

TITLE TO LANDS.—The board of sewer commissioners of any such village may acquire title to any property necessary to construct such portion of the sewerage system of such village as they shall be authorized to construct under this act, in the manner provided by subdivision 29 of section 3 of title 3 of chapter 291, of the laws of 1870, and said board of sewer commissioners shall have all the powers conferred upon the president and trustees of a village by said subdivision. Id. § 9.

BONDS.—For the providing of funds for the payment of the expenses authorized by this act, and for the construction and completion of such system of sewerage in any village, the board of sewer commissioners thereof is hereby authorized and empowered to issue its certificates of indebtedness, or bonds, from time to time, and to pledge the faith and credit of said village for the payment of work, material furnished, lands taken and other expenses of said work, bearing interest not exceeding five per cent per annum on all bonds running over one year, in such amount and upon such time as may be determined by said board. Such bonds shall be signed by the president and countersigned by the clerk of said board of such village and shall be made payable at such times as said board of sewer commissioners shall deem best, not exceeding twenty years

from the date of the issue thereof, but the same shall not be sold for less than the par value thereof, and shall be numbered consecutively as issued, and a record of the number, amount, rate of interest and time when payable shall be kept by the clerk of the board of sewer commissioners, who shall furnish a copy of such record to the clerk of said village, who shall also keep a record thereof. The said bonds shall, before sale or negotiation thereof, be delivered to the treasurer of said village, who shall have charge of the sale and negotiation thereof, and the proceeds of such sale and of all moneys raised by taxation for sewer purposes shall be credited to a separate fund called the sewer fund of said village. All expenditures authorized to be made by the board of sewer commissioners of any village by virtue of this act shall be paid by the treasurer of said village upon the order of the board of sewer commissioners, signed by the president and countersigned by the clerk thereof. Id. § 10.

EXISTING SEWER BOARDS.—In case in any such village there shall already exist a board of officers, or officers other than the trustees of such village, having general charge of the construction and maintenance of the sewers thereof, such board shall have all the powers conferred by this act upon the board of sewer commissioners by this act provided. Id. § 11.

BOARD OF SEWER COMMISSIONERS TO HAVE CHARGE; ANNUAL REPORTS, ETC.—The board of sewer commissioners of any such village shall have charge of the maintenance and repairs of the sewers and works connected therewith of such village. Said board shall annually report to the board of trustees at the last regular meeting of the board of trustees in each fiscal year, the estimated amount necessary for the maintenance and repairs of the sewers of said village for the next succeeding year, which amount shall be included in the annual tax levy for the next succeeding year. The expenses of such maintenance and repairs shall be paid by the treasurer of the village, upon the order of the board of sewer commissioners, signed by the clerk and countersigned by the president, not exceeding the amount so estimated in any one year. Id. § 12.

SUPERVISING ENGINEER.—The board of sewer commiss'rs of any such village shall have authority to employ a supervising engineer to superintend and inspect the construction of any sewers or works connected therewith authorized to be constructed by this act, and to pay him a compensation not exceeding ten dollars per day, and such other inspectors as may be necessary, and to pay them a compensation not exceeding two and one-half dollars per day each, which shall be included in their estimate of the expenses of the construction of the same, and shall be paid as a portion thereof. Id. § 13.

PROCEEDINGS WHEN NOTICE NOT GIVEN; RE-ASSESSMENT, ETC.—If the board of sewer commissioners of a village, in which a sewer, or portion of a sewer system shall have been constructed or hereafter may be constructed under this act, when a petition was duly signed and presented to them as required by the provisions of this act, shall have failed or neglected through inadvertence or mistake, to have given any notice by this act required, such board may, at any time within one year, after the completion of

such sewer or such portion of a sewer system, re-assess and apportion the cost and expenses of constructing such sewer upon the land specially benefitted thereby by causing a notice to be served upon the owners of said lands, stating the cost of such sewer and a time and place within such village where said board of sewer commissioners will meet for the purpose of re-assessing and re-apportioning the cost of such sewer upon all the lands benefitted thereby in proportion as nearly as may be, to the benefit and advantages which each owner shall receive thereby, which notice shall be served by the publication thereof once in each week, for two successive weeks, in at least one newspaper published in said village, and by posting said notice, in at least five public places in said village, and in case no newspaper is published in said village, the same shall be served by posting said notice in at least ten public places in said village at least ten days before the meeting of said board of sewer commissioners. Said board of sewer commissioners shall meet at the time and place mentioned in said notice and at such other time and times to which they may adjourn and shall proceed to re-assess and re-apportion the cost and expenses of constructing said sewer upon the lands specially benefitted thereby and upon the owner and owners of such lands in proportion as nearly as may be to the benefits and advantages which each shall receive thereby. After such re-assessment and re-apportionment shall be completed, the same or a copy thereof shall be left with the village clerk, and there remain for a period of ten days, and the said board of sewer commissioners, after they have delivered said re-assessment and re-apportionment to said village clerk as aforesaid, shall give public notice by posting the same in three public places in said village, stating that such re-assessment and re-apportionment have been made and completed, the officer to whom the same has been delivered and the place where the same will be open to public inspection for ten days thereafter. Any person who may feel aggrieved by such re-assessment and re-apportionment may, before said ten days' notice shall expire, appeal therefrom to the county judge of the county in which such village is situated, by serving the notice of appeal in the manner as provided by section seven of this act, and such appeal shall be determined in the manner provided by said section seven of this act, and all the provisions as to appeals from the first assessment as provided by section seven of this act, are hereby made applicable to appeals from the re-assessment and re-apportionment of said cost and expense of such sewer and shall be determined in the same manner and with the same force and effect. From and after the expiration of the time limited in which to appeal from such re-assessment and re-apportionment, in case no appeal is taken; and if an appeal is taken from and after the determination of the same, such re-apportionment, re-assessment and tax so re-assessed shall be binding upon such owner or owners of said lands, and shall be a lien upon such lands to be enforced and collected in the same manner as other village taxes are collected. Id. § 14, as am'd L. 1891, c. 316

WHEN EXISTING SYSTEM EMBRACED IN PLAN.—In case a map and plan of a permanent system of sewerage shall have been made, or may hereafter be made, under the provisions of this act, in any incorporated village, which said map and plan embraces in whole or in part any sewer

or sewers theretofore constructed in said village, and said sewer or sewers or portions thereof so embraced in said map or plan shall be proper and sufficient in capacity and construction to become a part of such proposed system of sewerage, the same may be made a part of said sewerage system. And when it shall be proposed as hereinbefore provided to construct the whole sewer system of any village at the expense of the village at large, it shall be lawful, and it shall be the duty of the board of sewer commissioners to include in the estimated expense of such sewer system provided for in section four of this act, the portion of the cost which has been raised by special tax on the property specially benefitted thereby. First, of any sewer, sewers, or portions of sewers, so taken and made a part of such sewerage system, or, second, of any sewer, sewers, or portion of sewers which may theretofore have been built in accordance with the provisions of this act. And in case it is determined to construct the whole of said sewerage system at the expense of the village at large, the board of sewer commissioners may issue its certificates of indebtedness or bonds for the payment of the amounts so paid by special tax in the same manner as for the payment of the expense of constructing the other portions of such sewer system. The moneys realized from the sale of such bonds, to the amount of the cost of such sewer, or sewers, or portion of sewers already constructed shall be repaid to the owners of the property on which said tax was assessed and levied, in the various sums and amounts originally levied upon said property. Application for the repayment of such moneys shall be made to the board of sewer commissioners in any such village, and repayment thereof shall be made in the same manner as other expenditures by virtue of this act authorized to be made. The board of sewer commissioners of any village which has by vote taken as prescribed herein, determined to construct such entire system of sewerage at the expense of the village at large, is hereby authorized to make repayment to the owners of property heretofore assessed for any sewer, sewers, or portion of sewers incorporated into a map or plan already made in the same manner as is hereinbefore provided. Id. § 15, added by c. 564, L. 1892.

ACTIONS BY MUNICIPALITIES TO PREVENT DISCHARGE OFSEWAGE INTO WATERS.—Any incorporated city or village in the state of New York, which has made such provision for the disposal of its sewage as not to pollute or contaminate therewith any river, stream, lake, or other body of water, may have and maintain an action in the supreme court to prevent the discharge of any sewage or substance deleterious to health, or which shall injure the potable qualities of the water in any river, stream, lake, or other body of water, from which such incorporated city or village shall take or receive its water supply, provided that such river, stream, lake, or other body of water is wholly, or in part, within the boundaries of the county in which such plaintiff is located. L. 1892, c. 235, § 1.

DUTY OF SUPREME COURT.—Whenever such action shall be brought under the provisions of this act, it shall be the duty of the supreme court upon proof of the existence of facts justifying the bringing and maintenance of such action under the provisions of this act to render a judgment in which shall be incorporated a mandatory injunction re-

quiring the person, body, board, corporation, municipality, village, county or town, being a defendent in said action which directly or indirectly, or by its servants, agents or officers shall discharge or dispose of its sewage, or any other substance deleterious to health; which shall injure the potable qualities of the water in such wise that the same shall enter into any river, stream, lake, or other body of water, from which such plaintiff shall take or receive its water supply, within such reasonable time as may be prescribed by the court, to take such action as shall prevent such discharge or the disposal of such sewage, or other substance into such waters, or the pollution thereof with such further directions in the premises as may be proper and desirable to effect such purpose, provided that such river, stream, lake, or other body of water is wholly, or in part, within the boundaries of the county in which such plaintiff is located. Id. § 2.

EXAMINATION BY STATE BOARD OF HEALTH.—But no such action shall be brought as provided for by section two of this act until the state board of health has examined and determined whether the sewage does pollute or contaminate the river, stream, lake, or other body of water into which said sewage is discharged. The expense of such examination by said board shall be a charge upon and paid by the municipality in whose interest, and on whose behalf such examination is made. Id. § 3.

APPROVAL OF PLANS FOR REMOVAL OF SEWAGE, ETC. —In case the state board of health shall find upon examination that the discharge of said sewage does pollute or contaminate said waters or any of them in such manner as to be of menace or danger to the health of those using said waters, the plans for the removal or disposal of the sewarge ordered to be prepared by the court as provided in section two shall be submitted to the state board of health for its approval. Id. § 4.

PUBLIC HEALTH, SEWERAGE AND GARBAGE.

LOCAL BOARDS OF HEALTH, ORGANIZATION, ETC.—There shall continue to be local boards of health and health offiers in the several villages of the state. * * * In villages the board shall consist of not less than three nor more than seven persons, not trustees of the village, who shall be appointed by such trustees annually and hold office for one year. Every such village board shall elect a president and appoint a competent physician, not a member of the board, to be the health officer of the village. * * * If the proper authorities shall not fill any vacancies occurring in any local board within thirty days after the happening of such vacancy, the county judge of the county shall appoint a competent person to fill the vacancy for the unexpired term, which appointment shall be immediately filed in the office of the county clerk. Notice of the membership and organization of every local board of health shall be forthwith given by such board to the state board of health. The term "municipality," when used in this article, means the city, village or town for which any such local board may be or is appointed. L. 1893, c. 661, Art. 2, § 20.

GENERAL POWERS AND DUTIES.—Every such local board of health shall meet at stated intervals to be fixed by it, in the municipality. The presiding officer of every such board

may call special meetings thereof when in his judgment the protection of the public health of the municipality requires it, and he shall call such meeting upon the petition of at least twenty-five residents thereof, of full age, setting forth the necessity of such meeting. Every such local board shall prescribe the duties and powers of the local health officer, who shall be its chief executive officer, and direct him in the performance of his duties, and fix his compensation. Every such local board shall make and publish from time to time all such orders and regulations as they may deem necessary and proper for the preservation of life and health, and the execution and the enforcement of the public health law in the municipality. It shall make without publication thereof such orders and regulations for the suppression of nuisances, and concerning all other matters in their judgment detrimental to the public health in special or individual cases, not of general application, and serve copies thereof upon the owner or occupant of any premiees whereon such nuisances or other matters may exist, or post the same in some conspicuous place thereon. It may employ such persons as shall be necessary to enable it to carry into effect its orders and regulations, and fix their compensation. It may issue subpoenas, compel the attendance of witnesses, administer oaths to witnesses and compel them to testify, and for such purposes it shall have the same powers as a justice of the peace of the state in a civil action of which he has jurisdiction. It may designate by resolution one of its members to sign and issue such subpoenas. No subpoena shall be served outside of the jurisdiction of the board issuing it, and no witness shall be interrogated or compelled to testify upon matters not related to the public health. It may issue warrants to any constable or policeman of the municipality to apprehend and remove such persons as can not otherwise be subjected to its orders or regulations, and a warrant to the sheriff of the county to bring to their aid the power of the county whenever it shall be necessary to do so. Every warrant shall be forthwith executed by the officer to whom directed, who shall have the same powers and be subject to the same duties in the execution thereof, as if it had been duly issued out of a court of record of the state. Every such local board may prescribe and impose penalties for the violation of or failure to comply with any of its orders or regulations not exceeding one hundred dollars for a single violation or failure, to be sued for and recovered by it in the name and for the benefit of the municipality. Id. § 21. 100 N. Y. 46. 39 Hun. 79. 1 Park 481.

VITAL STATISTICS.—Every such local board shall supervise and make complete the registration of all births, marriages and deaths occurring within the municipality, and the cause of death and the findings of coroner's juries, in accordance with the methods and forms prescribed by the state bureau of health, and after registration, promptly forward the certificates of such births, marriages and deaths to the state board of vital statistics. Every parent or custodian of a child born, and the groom, officiating clergyman, or magistrate at every marriage shall cause a certificate of such birth or marriage to be returned within thirty days thereafter to the local board of health or person designated by it to receive the same, which shall be attested, if a birth, by the physician or midwife, if any in attendance, and if a mar

The cost of such registration, not exceeding twenty-five cents for the compete registered record of a birth, marriage or death, shall be a charge upon the municipality. L. 1893, c. 661, Art. 2, § 20, as am'd. L. 1894, c. 679.

and the additional sum of [illegible]

Such copies shall be furnished upon request of any person, and when certified to be correct by the president or secretary of the board or local registering officer designated by it, shall be presumptive evidence in all courts and places of the facts therein stated. Id. § 22.

BURIAL AND BURIAL PERMITS.—Every such local board shall prescribe sanitary regulations for the burial and removal of corpses, and shall designate the persons who shall grant permits for such burial, and permits for the transportation of any corpse which is to be carried for burial beyond the county where the death occurred. Every undertaker, sexton, or other person having charge of any corpse, shall procure a certificate of the death and the probable cause duly certified by the physician in attendance upon the deceased during his last illness, or by the coroner where an inquisition is required by law, and if no physician was in attendance, and no inquest has been held or required by law, an affidavit stating the circumstances, time and cause of death, and sworn to by some credible person known to the officer granting the permit, and there shall be no burial or removal of a corpse until such certificate or affidavit has been presented to the local board or to the person designated by it, and thereupon a permit for such burial or removal has been obtained. When application is made for a permit to transport a corpse over any railroad or upon any passenger steamboat within the state, the board of health or the officers to whom such application is made, shall require such corpse to be inclosed in a hermetically sealed casket of metal or other indestructible material, if the cause of death shall have been from a contagious or infectious disease. Id. § 23.

CONTAGIOUS AND INFECTIOUS DISEASES.—Every such local board of health shall guard against the introduction of contagious and infectious diseases by the exercise of proper and vigilant medical inspection and control of all persons and things arriving in the municipality from infected places, or which from any cause are liable to communicate contagion. It shall require the isolation of all persons and things infected with or exposed to such diseases, and provide suitable places for the treatment and care of sick persons who can not otherwise be provided for. It shall prohibit and prevent all intercourse and communication with or use of infected premises, places and things, and require, and, if necessary, provide the means for the thorough purification and cleansing of the same before general intercourse with the same or use thereof shall be allowed. It shall report to the state board of health promptly, the facts relating to contagious and infectious diseases, and every case of small-pox or varioloid within the municipality. Health officers of villages and towns shall report in writing once a month to the state board of health all cases of such infectious and contagious diseases as may be required by the state board of health, and for such reporting the health officer shall be paid by the municipality em-

ploying him, upon the certification of the state board of health a sum not to exceed twenty cents for each case so reported; and the health officer shall report annually on or before the first day of January in each year the number of cases of consumption which have existed in his jurisdiction during that year, and for each case thus reported he shall receive a sum not to exceed ten cents, to be paid in the same manner as the other like charges are paid. It shall provide, at stated intervals, a suitable supply of vaccine virus, of a quality and from a source approved by the state board of health, and during an actual epidemic of small-pox obtain fresh supplies of such virus at intervals not exceeding one week, and at all times provide thorough and safe vaccination for all persons in need of the same. If a pestilential, infectious or contagious disease exists in any county almshouse or its vicinity, and the physician thereof shall certify that such disease is likely to endanger the health of its inmates, the county superintendent of the poor may cause such inmates or any of them to be removed to such other suitable place in the county as the local board of health of the municipality where the almshouse is situated may dsignate, there to be maintained and provided for at the expense of the county, with all necessary medical care and attendance until they shall be safely returned to such almshouse or otherwise discharged. Id. § 24.

NUISANCES.—Every such local board shall receive and examine into all complaints made by any inhabitant concerning nuisances, or causes of danger or injury to life and health within the municipality, and may enter upon or within any place or premises where nuisances or conditions dangerous to life and health are known or believed to exist, and by its members or other persons designated for that purpose, inspect and examine the same. The owners, agents and occupants of any such premises shall permit such sanitary examination to be made, and the board shall furnish such owners, agents and occupants with a written statement of the results and conclusions of such examination. Every such local board shall order the suppression and removal of all nuisances and conditions detrimental to life and health found to exist within the municipality. Whenever the state board of health or its president and secretary shall by notice to the presiding officer of any local board of health, request him to convene such local board to take certain definite proceedings concerning which the state board of health or its president and secretary shall be satisfied that the action recommended by them is necessary for the public good, and is within the jurisdiction of such board of health, such presiding officer shall convene such local board which shall take the action recommended. Id. § 25. 100 N. Y. 46.

REMOVAL OF NUISANCES.—If the owner or occupant of any premises fails to comply with any order or regulation of any such local board for the suppression and removal of any nuisance or other matter, in the judgment of the board detrimental to the public health, made, served or posted as required in this article, such boards or their servants or employes may enter upon the premises to which such order or regulation relates, and suppress or remove such nuisance or other matter. The expense of such suppression or removal shall be paid by the owner or occupant of such

premises, or by the person who caused or maintained such nuisance or other matters, and the board may maintain an action in the name of the municipality to recover such expense, and the same when recovered shall be paid to the treasurer of the municipality, or if it has no treasurer to its chief fiscal officer, to be held and used as the funds of the municipality. Id. § 26.

EXPENSE OF ABATEMENT OF NUISANCES A LIEN UPON THE PREMISES.—If execution upon a judgment for the recovery of the expense of the suppression or removal of a nuisance or other matter, pursuant to an order or regulation of any such local board, is returned wholly or in part unsatisfied, such judgment, it docketed in the place and manner required by law to make a judgment, of a court of record a lien upon real property, shall be a first lien upon such premises, having preference over all other liens and incumbrances whatever. The board may cause such premises to be sold for a term of time for the payment and satisfaction of such lien and the expenses of the sale. Notice of such sale shall be published for twelve weeks successively, at least once in each week, in a newspaper of the city, village or town, or if no newspaper is published therein, in the newspaper published nearest to such premises. If the owner or occupant of the premises, or his agent, is known, a copy of such notice shall be served upon him, either personally, at least fourteen days previous to the sale, or by mail at least twenty-eight days prior thereto. The premises shall be sold to the person offering to take them for the shortest time, paying the amount unpaid on such judgment and interest and the expenses of such notice and sale. A certificate of the sale, signed and acknowledged by the president and secretary of the board, shall be made and delivered to the purchaser, and may be recorded as a conveyance of real property, and the purchaser shall thereupon be entitled to the immediate possession of such premises, and, if occupied, may maintain an action or proceeding to recover the possession thereof against the occupant, as against a tenant of real property holding over after the expiration of his term; and the cost of any such action or proceeding, if not paid by the occupant, shall also be a lien upon such premises, having the same preference as the lien of such judgment, and the right of the purchaser to such premises. shall be extended for a longer term, which shall bear the same proportion to the original term as the amount of such cost bears to the amount paid by the purchaser on such sale. The term of the purchaser at any such sale shall commence when he shall have acquired possession of the premises sold. At any time within six months after recording such certificate, the owner of the premises or any lessee, mortgagee or incumbrancer thereof, or of any part of the same, may redeem the premises or any such part from such sale by paying to the purchaser the amount paid by him on the sale, and all costs and expenses incurred by him in any action or proceedings to recover possession with interest at the rate of ten per cent per annum thereon. If redemption is made by the owner, the right of the purchaser shall be extinguished; if by a lessee, the amount paid shall be applied as a payment upon any rent due or which may accrue upon his lease; if by a mortgagee or an incumbrancer, the amount paid shall be added to his mortgage, incumbrance or other

lien, or if he have more than one to the oldest, and shall thereafter be a part of such mortgage, lien or incumbrance and enforceable as such. Id. § 27.

MANUFACTURES IN TENEMENT HOUSES AND DWELLINGS.—No room or apartment in a tenement or dwelling house, used for eating or sleeping purposes, shall be used for the manufacture, wholly or partly, of coats, vests, trousers, knee pants, overalls, cloaks, shirts, purses, feathers, artificial flowers or cigars, except by the members of the family living therein, which shall include a husband and wife and their children, or the children of either. A family occupying or controlling such a workshop shall, within fourteen days from the time of beginning work therein, notify the board of health of the city, village or town, where such workshop is located, or a special inspector appointed by such board, of the location of such workshops, the nature of the work carried on, and the number of persons employed therein; and thereupon such board shall, if it deems advisable, cause a permit to be issued to such family to carry on the manufacture specified in the notice. Such board may appoint as many persons as it deems advisable to act as special inspectors. Such special inspectors shall receive no compensation, but may be paid by the board their reasonable and necessary expenses. If a board of health of such inspector shall find evidence of infectious or contagious diseases present in any workshop, on in goods manufactured or in process of manufacture therein the board shall issue such orders as the public health may require, and shall condemn and destroy such infectious and contagious articles, and may if necessary to protect the public health, revoke any permit granted by it for manufacturing goods in such workshop. If a board of health or any such inspector shall discover that any such goods are being brought into the state, having been manufactured, in whole or in part, under unhealthy conditions, such board or inspector shall examine such goods and if they are found to contain vermin, or to have been made in improper places or under unhealthy conditions, the board may make such orders as the public health may require, and may condemn and destroy such goods. Id. § 28.

JURISDICTION OF VILLAGE BOARDS.—A town board of health shall not have jurisdiction over any city or incorporated village or part of such city or village in such town, if such city or village has an organized board of health. The boards of health of any town and the incorporated villages therein, or any two or more towns and the incorporated villages therein, may unite, with the written approval of the state board of health, in a combined sanitary and registration district, and appoint for such district one health officer, and registering officer, whose authority in all matters of general application shall be derived from the boards of health appointing him ; and in special cases not of general application arising within the jurisdiction of but one board shall be derived from such board alone. Id. § 29.

EXPENSES HOW PAID.—All expenses incurred by any local board of health in the performance of the duties imposed upon it or its members by law shall be a charge upon the municipality, and shall be audited, levied, collected and paid in the same manner as the other charges of, or

upon, the municipality are audited, levied, collected and paid. The taxable property of any village maintaining its own board of health, shall by subject to taxation for maining any town board of health, or for any expenditure authorized by the town board of health, but the cost and expenditures of the town board shall be assessed and collected exclusively on the property of the town outside of any such village. Id. §30.

MANDAMUS.—The performance of any duty or the doing of any act enjoined, perscribed or required by this article, may be enforced by mandamus at the instance of the state board of health or its president or secretary, or of the local board of health, or of its president or secretary, or of any citizen of full age resident of the municipality where the duty should be performed or the act done. Id. § 31.

DESTRUCTION OF GARBAGE.—Within any village having over ten thousand inhabitants it shall be lawful for the trustees of such village, and within any town having over ten thousand inhabitants, or within any district in any such town established by the town board of such town, it shall be lawful for the town board of such town, to provide for the collection of and to cause to be consumed by fire or heat and to prohibit the throwing, casting or deposit in any body or stream of water, or upon any ash heap or other place than such as may be provided by them within such village, town or district, any animal or vegetable refuse, dead animal, carrion, offal, swill or garbage. And it shall be lawful for the town board of any such board of any such town, or the trustees of any such village, to contract for the collection and for the consumption by heat or fire of any such refuse or other aforesaid matter, or for the purchase, maintenance and operation of any appliances for the collection and consumption thereof. L. 1894, c. 666, § 1.

VIOLATION A MISDEMEANOR.—Any person offending against any such provision as aforesaid made by any such town board or trustees for the collection, or for the prohibition of throwing, casting or deposit, of any such refuse or other aforesaid matter shall be deemed guilty of a misdemeanor. Id. § 2.

EXPENSE TAX.—Any expense incurred in any town, or any district in any town, pursuant to the provisions of this act shall be levied, assessed and collected upon the taxable property in the town or district as to which the same is incurred in the same manner at the same time and by the same officers as the town taxes, charges or expenses of such town are assessed, levied and collected, and shall be paid over to the supervisor of such town, and by him applied to the payment of such expense. Any expense incurred in any village, pursuant to the provisions of this act, shall be annually raised as a part of the expenses of such village, and shall be levied, assessed and collected in the same manner that other expenses of such village are raised and shall be kept separate from the other funds of such village and shall be applied by the trustees thereof to the payment of the expense. Id. § 3.

PURIFICATION OF SEWERAGE.—The local authorities of the several cities, towns and villages of the state having charge of the supply of water and the care of sewerage in their respective localities, are hereby authorized, on behalf of their cities, towns and villages, respectively, to enter in-

to contracts with the owners of any process or apparatus for the purification of water and sewerage whether protected by patents or not, and either contract for the use of apparatus and process for a term of years or for the purchase of the same as to them shall seem advisable. L. 1894, c. 667.

ELECTRIC LIGHTS.

TRUSTEES MAY MAKE CONTRACT; LIMITATION.—The board of trustees of any incorporated village of this state, whether incorporated under the act entitled "An act for the incorporation of villages," passed April twentieth, eighteen hundred and seventy, and acts amendatory thereof and supplemental thereto, or by special charter or act, shall have the power, and they are hereby authorized and empowered, to contract for a term of one year or more with any electric light company organized under the laws of this state, or with any person or persons for lighting the streets and public grounds of such village; and the amount of such contract agreed to be paid shall be annually raised as a part of the expenses of such village, and shall be levied, assessed and collected in the manner that other expenses of said village are raised, and when collected shall be kept separate from other funds of said village and shall be paid over to such electric light company, person or persons by such trustees according to the terms of any such contract; and any such contract entered into by the board of trustees of any village shall be valid and binding upon such village providing, however, that no such contract shall be made for a longer period than five years nor for a greater sum in the aggregate than two thousand dollars per annum in a village of not more than three thousand population by the last preceding federal census or state enumeration nor more than one and one-half mills per annum for every dollar of taxable property in a village exceeding such population by such census or enumeration, unless the proposition for the same be submitted to a vote of the electors of such village, in the manner provided by sections four and five of title four of chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, and approved by the majority of the voters entitled to vote, and voting on such question at the annual election or at a special election duly called. L. 1888, c. 452, as am'd L. 1893, c. 473. Id. 133.

DOES NOT APPLY TO VILLAGES OF OVER 8,000 INHABITANTS.—The provisions of this act shall not apply to any village, the population of which exceeded eight thousand by the census of 1880. L. 1888, c. 452, § 2.

EXCEPTION.—The counties of Richmond, Queens and Suffolk, and the village of White Plains in the county of Westchester, are hereby exempted from the provisions of this act. L. 1886, c. 452, § 3, as am'd L. 1893, c. 617.

NOTE.—Villages in Westchester county. See L. 1894, c. 673.

POWER TO ESTABLISH.—The board of water commisoners of any village in the state of New York, incorporated by or in pursuance of a general or special law, having a waterworks system belonging to the village, shall have the power to establish a lighting system within said village, for the purpose of supplying light, by means of electricity, gas

or other approved system, to the inhabitants of said village. L. 1894, c. 680, § 1.

WATER COMMISSIONERS MAY ISSUE BONDS FOR PROCURING LIGHTS, ETC.—For the purposes of this act the said water commissioners shall have power to issue bonds or other certificates of indebtedness, upon the faith and credit of said village, to procure the necessary funds for establishing such lighting system; provided, however, that the aggregate amount of indebtedness incurred for the purpose of establishing a water-works system and the lighting system shall not exceed ten per centum of the aggregate amount of assessment of the taxable property of the said village as ascertained from the last assessment-roll. Id. § 2.

POWER OF COMMISSIONERS.—The said water commissioners, in villages taking advantage of the provisions of this act, shall be known as water and light commissioners, and shall have power to establish and maintain such lighting system to supply the inhabitants with light and to collect rentals therefor, and they shall dispose of the moneys derived from the same in the same manner as provided for the disposition of moneys derived from water rentals by chapter one hundred and eighty-one of the laws of eighteen hundred and seventy-five, and the acts amendatory thereof, relating to boards of water commissioners. Id. § 3.

TAX.—The village trustees of said village may arrange with such commissioners for the public lighting of such village, and levy and collect a tax to pay the expenses thereof. Id. § 4.

SPECIAL ELECTION.—No village shall establish a lighting system as provided by this act until the proposition be submitted to popular vote at an annual or special election. At such election the ballots shall be "for a lighting system" or "against a lighting system," and all those persons entitled to vote for or against the water taxes shall be entitled to vote on such proposition. If a majority of votes cast be in favor of a lighting system, the said commissioners may proceed to establish the same as herein provided. Id. § 5.

EXAMINATION OF SYSTEM.—Whenever any person, or corporation organized under the laws of this state, shall have erected or established a gas or electric light system, for the purpose of furnishing gas or electric light for the public streets, parks, grounds or public buildings, or to the inhabitants of any such village, under a franchise or contract granted or made pursuant to law, and supplies gas or electric light for the public streets, parks, grounds, public buildings or the inhabitants of such village, and a majority of the voters of such village voting at any annual or regularly called special meeting decide to establish a lighting system, the board of water and light commissioners of such village shall make or cause to be made an examination of such gas or electric light system, and the privileges and properties connected and operated therewith, and proceed to acquire such system, privileges and properties by condemnation. Id. § 6.

GAS AND ELECTRIC LIGHT CORPORATIONS.

INCORPORATION.—Three or more persons may become a corporation for manufacturing and supplying gas for lighting the streets and the public and private buildings of any city, village or town, or two or more villages or towns not over five miles distant from each other, in this state, or for manufacturing and using electricity for producing light, heat or power, and in lighting streets, avenues, public parks and places and public and private buildings of cities villages and towns within this state, by making, signing, acknowledging and filing a certificate stating the name of the corporation, its object, the amount of its capital stock, the term of its existence not to exceed fifty years, the number of shares of which the stock shall consist, the number of directors not less than three nor more than thirteen, the names and places of residence of the directors for the first year, and the name of the town and county in which the operation of the corporations are to be carried on, and thereupon the persons who shall have signed the same, their associates and successors shall be a corporation by the name stated in the certificate. L. 1890 c. 566, § 60.

POWERS—Every such corporation shall have the following additional powers:

1. If incorporated for the purpose of supplying gas for light, to manufacture, sell and furnish such quantities of gas as may be required in the city, town or village where the same shall be located, or said two or more villages or towns, not over five miles distance from each other, named in its certificate of incorporation, for lighting the streets, and public and private buildings or for other purposes; and to lay conductors for conducting gas through the streets, lanes, alleys, squares and highways, in such city, villages or towns, with the consent of the municipal authorities thereof, and under such reasonable regulations as they may prescribe; and such municipal authorities shall have power to exempt any such corporation from taxation on their personal property for a period not exceeding three years from the organization of the corporation.

2. If incorporated for the purpose of using electricity for light, heat or power, to carry on the business of lighting by electricity or using it for heat or power in cities, towns and villages within this state, and the street, avenues, public parks and places thereof, and public and private buildings therein; and for the purposes of such business to generate and supply electricity; and to make, sell or lease all machines, instruments, apparatus and other equipments, therefor, and to lay, erect and construct suitable wires or other conductors, with the necessary poles, pipes or other fixtures in, on, over and under the streets, avenues, public parks and places of such cities, towns or villages, for conducting and distributing electricity, with the consent of the municipal authorities thereof, and in such manner and under such reasonable regulations, as they may prescribe.

3. Any two or more corporations organized under this article or under any general or special law of the state for the purpose of carrying on any business which a corporation organized under this article might carry on, may consolidate such corporations into a single corporation by complying with the provisions of the business corporations law relating to the consolidation of business corporations. Id. § 61.

INSPECTION OF GAS METERS.—No corporation or person shall furnish or put in use any gas meter, which shall not have been inspected, proved and sealed by the inspector, except during such time as the office of the inspector may be vacant, or such inspector after request made, shall refuse or neglect to prove and seal the meters furnished for that purpose, and every gas-light corporation shall provide and keep in and upon their premises a suitable and proper apparatus, to be approved and sealed by the inspector of meters, for testing and proving the accuracy of the gas meters furnished for use by it, and by which apparatus, every meter may and shall be tested, on the written request of the consumer, to whom the same shall be furnished, and in his presence if he desire it. If any such meter on being so tested, shall be found defective or incorrect to the prejudice or injury of the consumer, the necessary removal inspection, correction and replacing of such meter shall be without expense to the consumer, but in all other cases he shall pay the reasonable expense of such removal, inspection and replacing; and in case any consumer shall not be satisfied with such inspection of the meter furnished to him, and shall give to the corporation written notice to that effect, he may have such meter reinspected by the state inspector, if he require it, upon the same terms and conditions as herein provided for the original inspection thereof. Id. § 64.

GAS AND ELECTRIC LIGHT MUST BE SUPPLIED ON APPLICATION.—Upon application, in writing, of the owner or occupant of any building or premises within one hundred feet of any main laid down by any gas-light corporation, or the wires of any electric-light corporation, and payment by him of all money due from him to the corporation, the corporation shall supply gas or electric light as may be required for lighting such building or premises, notwithstanding there be rent or compensation in arrear, for gas or electric light supplied, or for meter, wire, pipe or fittings, furnished to a former occupant thereof, unless such owner or occupant shall have undertaken or agreed with the former occupant to pay or to exonerate him from the payment of such arrears, and shall refuse or neglect to pay the same; and if for the space of ten days after such application, and the deposit of a reasonable sum as provided in the next section, if required, the corporation shall refuse or neglect to supply gas or electric light as required, such corporation shall forfeit and pay to the applicant the sum of ten dollars, and the further sum of five dollars for every day thereafter during which such refusal or neglect shall continue; provided that no such corporation shall be required to lay service pipes or wires for the purpose of supplying gas or electric light to any applicant where the ground in which such pipe or wire is required to be laid shall be frozen, or shall otherwise present serious obstacles to laying the same; nor unless the applicant, if required, shall deposit in advance with the corporation a sum of money sufficient to pay the cost of his portion of the pipe or wire required to be laid, and the expense of laying such portion. Id. § 65.

DEPOSIT OF MONEY MAY BE REQUIRED.—Every gas-light and electric light corporation may require every person to which such corporation shall supply gas or electric

light for lighting any building, room or premises to deposit with such corporation a reasonable sum of money according to the number and size of lights used or required, or proposed to be used for two calendar months, by such person, and the quantity of gas and electric light necessary to supply the same as security for the payment of gas and electric light rent or compensation for gas consumed, or rent of pipe or wire and fixtures, to become due to the corporation, but every corporation shall allow and pay to every such depositor legal interest on the sum deposited for the time his deposit shall remain with the corporation. Id. § 66.

BUILDINGS MAY BE ENTERED FOR THE EXAMINATION OF METERS, LIGHTS, ETC., ETC.—Any officer or other agent of any gas light or electric light corporation, for that purpose duly appointed and authorized by the corporation, may, at all reasonable times, upon exhibiting a written authority, signed by the president and secretary of the corporation, enter any dwelling, store, building, room or place lighted with gas or electric light supplied by such corporation, for the purpose of inspecting and examining the meters, pipes, fittings, wires and works for supplying or regulating the supply of gas or electric light and of ascertaining the quantity of gas or electric light consumed or supplied, and if any person shall, at any time, directly or indirectly, prevent or hinder any such officer or agent from so entering any such premises, or from making such inspection or examination at any reasonable time, he shall, for every such offense, forfeit to the corporation twenty-five dollars. Id. § 67.

REFUSAL OR NEGLECT TO PAY RENT.—If any person supplied with gas or electric light by any such corporation shall neglect or refuse to pay the rent or remuneration due for the same or for the wires, pipes or fittings let by the corporation, for supplying or using such gas or electric light or for ascertaining the quantity consumed or used as required by his contract with the corporation, or shall refuse or neglect, after being required so to do, to make the deposit required, such corporation may prevent the gas or electric light from entering the premises of such person; and their officers, agents or workmen may enter into or upon any such premises between the hours of eight o'clock in the forenoon and six o'clock in the afternoon, and separate and carry away any meter, pipe, fittings, wires or other property of the corporation, and may disconnect any meter, pipe, fittings, wires or other works whether the property of the corporation or not, from the mains, pipes or wires of the corporation. Id. 68.

NO RENT FOR METERS TO BE CHARGED.—No gas-light corporation in this state, shall charge or collect rent on its gas meters, either in a direct or indirect manner, and any person, party or corporation violating this provision shall be liable to a penalty of fifty dollars for each offense, to be sued for and recovered in the corporate name of the city or village where the violation occurs, in any court having jurisdiction, and when collected to be paid into the treasury of such city or village and to constitute a part of the contingent or general fund thereof. Id. § 69.

EXTRAORDINARY EXPENDITURES.

SPECIAL ELECTION TO RAISE MONEY; TRUSTEES MAY EXPEND $500 WITHOUT ELECTION.—Whenever it shall be desired by any village, whether incorporated under a special act, or organized under the general act for the incorporation of villages, to raise moneys additional to the amount permitted to be raised by its charter, or by the general law aforesaid, for the purpose of building a bridge, constructing a sewer, or carrying out some other proper village object, the trustees of any such village may call a special election of the tax-paying electors thereof, and submit to them the question of raising such moneys, and if a majority of such electors voting thereon shall vote in favor of raising such moneys, the trustees are authorized to raise the same in the same manner as other village taxes are raised and collected; and in anticipation of such tax may temporarily borrow the amount thereof upon the credit of such village and use the said moneys for the purpose desired. But if the amount desired to be raised for any of the purposes aforesaid shall not exceed in the aggregate the sum of five hundred dollars, the trustees of any such village may by a unanimous vote of all the trustees in office, and without submitting the question to the said electors, proceed to raise the same, in the same manner as other village taxes are raised and collected, and may in anticipation of such tax temporarily borrow the amount thereof upon the credit of such village, and use the said moneys for the purposes intended. L. 1887, c. 504, § 1. 46 Hun. 548-549. 67 Id. 218.

ADDITIONAL POWERS.—The powers conferred by this act are in addition and supplementary to and independent of all other powers possessed by villages either under any special act or under the general act for the incorporation of villages; and when the trustees of any village shall act under its provisions they shall state in their proceedings that they are taken under the "Act of eighteen hundred and eighty-seven conferring additional powers upon villages." Id. § 2.

LOCAL IMPROVEMENTS; CONSENT OF TAX-PAYERS.—The trustees of any village, having a population of at least 5,000 persons, whether incorporated under a special act or organized under the general act for the incorporation of villages, shall likewise have power to provide by resolution of the board of trustees, passed at a regular meeting, by a vote of not less than a majority of all members of said board for the making of any local improvement which they may deem to be for the best interests of such village, and for raising money therefor either by temporary loan, or by the issuance of bonds of the village, provided that no resolution passed under the authority conferred by this section shall have any force or effect unless notice of the passage thereof shall be published in a newspaper of said village at least once in each week, for four weeks thereafter immediately succeeding, nor unless within sixty days after the last publication of said resolution, there shall be filed in the office of the village clerk written consents that said resolution take effect, signed by at least one hundred tax-payers of said village, who shall be the owners of a majority in value of all the taxable property situate within the limits of said village, according to the valuations of such

property upon the last preceding assessment roll of said village, and acknowledged by such tax-payers, and each of them, before an officer authorized to take acknowledgments of deeds for record. And upon the publication of such notice and the filing of such consents within the times above limited, the said resolution shall have full force and effect as if the same had been specially authorized by law. Id. § 3, as am'd L. 1890, c. 371.

REJECTION OF RESOLUTION TO RAISE MONEY.—Whenever at a general or special election in any incorporated village of this state, any resolution or proposition for a purpose involving taxation or the incurring of debt in or by such village shall have been rejected, no resolution or proposition embracing the same or any similar purpose, shall be again submitted to vote in such village, before the next annual election thereafter, except when the necessity of the occasion for the same shall have arisen after the rejection of such resolution or proposition. L. 1881, c. 353, § 1.

RAILROADS.

STREETS ACROSS RAILROAD TRACKS.—It shall be lawful for the authorities of any * * * village * * * in this state who are by law empowered to lay out streets and highways, to lay out any street or highway across the track of any railroad now laid, or which may hereafter be laid, without compensation to the corporation owning such railroad; but no such street or highway shall be actually opened for use until thirty days after notice of such laying out has been served personally upon the president, vice-president, treasurer or a director of such corporation. L. 1853, c. 62, § 1. 90 N. Y. 21: 91 Id. 552: 24 Id. 356: 21 Barb. 517.

CROSSINGS TO BE MADE.—It shall be the duty of any railroad corporation, across whose track a street or highway shall be laid out as aforesaid, immediately after the service of said notice, to cause the said street or highway to be taken across their track, as shall be most convenient and useful for public travel, and to cause all necessary embankments, excavation and other work to be done on their road for that purpose; and all the provisions of the act passed April second, 1850, in relation to crossing streets and highways, already laid out, by railroads, and in relation to cattle-guards and other securities and facilities for crossing such roads, shall apply to streets and highways hereafter laid out. Id. § 2.

PENALTY FOR NEGLECT.—If any railroad corporation shall neglect or refuse for thirty days after the service of the notice aforesaid, to cause the necessary work to be done and completed, and improvements made on such streets or highways across their road, they shall forfeit and pay the sum of twenty dollars for every subsequent day's neglect or refusal, to be recovered by the officers laying out such street or highway, to be expended on the same, but the time for doing such work may be extended, not to exceed thirty days by the county judge of the county in which such street or highway, or any part thereof, may be situated, if, in his opinion the said work cannot be performed within the time limited by this act. Id. § 3.

SIGNBOARDS AND FLAGMEN AT CROSSINGS.—Every railroad corporation shall cause boards to be placed, well supported and constantly maintained across each traveled public road or street, where the same is crossed by its road at grade. They shall be elevated so as not to obstruct travel, and to be easily seen by travellers; and on each side shall be painted in capital letters, each at least nine inches in length and of suitable width the words "RAILROAD CROSSING; LOOK OUT FOR THE CARS"; but such boards need not be put up in cities and villages, unless required by the officers having charge of the streets. At any point where a railroad crosses a street, highway, turnpike, plank-road, or travelled way at grade, or where a steam railroad crosses a horse railroad at grade, and the corporation owning or operating such railroad, refuses upon request of the local authorities to station a flagman or erect gates to be opened and closed when an engine or train passes, the supreme court or the county court, may, upon the application of the local authorities and upon ten days' notice to the corporation, order that a flagman be stationed at such point, or that gates shall be erected thereat, and that a person be stationed to open and close them when an engine or train passes, or may make such other order respecting the same as it deems proper. Whenever the crossings by a railroad at grade of the streets, highways, turnpikes, plank-roads, or travelled ways of any village or city having a population by the last state or federal enumeration of less than fifty thousand, shall be protected by gates with persons to open and close the same, when an engine or tran passes, the local authorities of the city or village shall not impose any limitation, less than forty miles an hour, on the rate of speed at which such engine or train shall be run, or enforce any existing limitation upon such rate of speed less than forty miles an hour. L. 1892, c. 676, § 33. 72 Hun. 575.

STREET RAILROADS ON OR ACROSS STREETS; PROCEEDINGS ON DISAGREEMENT.—Whenever the railroad or route of any street surface railroad corporation shall intersect and cross, or shall cross the tracks and roadbed of any railroad, operated by locomotive, steam or other power, which are laid in, across or upon the surface of any street, avenue, road or highway in any city, town or village of the state having less than five hundred thousand inhabitants, and such street surface railroad corporation having been unable to agree with the corporation owning the tracks and roadbed so intersected or to be intersected and crossed, as to the line or lines, grade or grades, points or manner of such intersection or crossing, or upon the compensation to be made therefor, shall have applied to the court by petition to appoint commissioners to determine the same, the court shall upon the application made by such street surface railroad corporation, at or after, the time of the appointment of such commissioners, or if an answer to the petition of such street surface railroad corporation has been interposed, at any time thereafter, direct that such street surface railroad corporation, be permitted to lay its tracks across and to intersect, upon the surface of the street, avenue, road or highway, the tracks and roadbed of such railroad operated by locomotive, steam, or other power, provided, such street surface railroad corporation shall at the time of obtaining such order make and file with the clerk of said

court, its bond or undertaking in writing in an amount and with surety or sureties to be approved by the court, conditioned for the full and faithful performance by such street surface railroad corporation of any and all conditions and requirements which may be imposed by said commissioners and be affirmed by the court, in determining the line or lines, grade or grades, points or manner of such intersection and crossing and as to the amount of compensation to be paid therefor, and also conditioned to conform such crossing and intersection made by virtue of such order of the court to the requirements made by said commissioners as affirmed by the court. L. 1893, c. 239, §1.

CONSENT OF RAILROAD COMMISSIONERS.—No street surface railroad shall be allowed to lay its tracks at grade across the tracks or roadbed of any railroad operated by locomotive steam power at any point where there are three or more tracks of the steam road proposed to be crossed, which tracks have been constructed and in operation at least two years, unless the written consent of the state railroad commissioners be first obtained for such crossing at grade. But this section shall not affect the operation of section one of this act in any suit or proceeding now pending nor any renewals of said pending suit or proceeding brought for any cause. Id. §1

ASSESSMENT.

ERRONEOUS ASSESSMENTS; REVIEW BY SUPREME COURT.—A writ of certiorari may be allowed by the supreme court on the petition, duly verified, of any person or corporation assessed and claiming to be aggrieved, to review an assessment of real or personal property for the purpose of taxation made in any * * * village * * * of this state, when the petition shall set forth that the assessment is illegal, specifying the grounds of the alleged illegality, or is erroneous by reason of over valuation, or is unequal in that the assessment has been made at a higher proportionate valuation than other real or personal property on the same roll by the same officers, and that the petitioner is or will be injured by such illegal, erroneous or unequal assessment.

SEVERAL MAY UNITE.—When the alleged illegality, error or inequality affects several persons in the same manner who are assessed upon the same roll, they may unite in the same petition, and in that case the writ may be allowed, and proceedings authorized by this act had in behalf of all such petitioners. L. 1880, c. 269.

(For the further proceedings see said act.)

ASSESSMENT ROLLS TO BE FILED WITH VILLAGE CLERK.—All assessment rolls, when finally completed and verified by the assessors, shall * * * in incorporated villages * * * at the time prescribed by their respective charters or laws applicable to them, be delivered to the village clerk * * * and there remain with such clerk * * * for a period of fifteen days for public inspection.

NOTICE THEREOF.—The assessors or other officers who complete and verify the assessment-roll shall, after they have delivered the same to the said * * * village clerk * * * forthwith give public notice by posting the same in at least three of the most public places in said vil-

lage, or by publishing the same in one or more newspapers published therein, that such assessment-roll has been finally completed, the officer to whom the same has been delivered and the place where the same will be open to public inspection. The fifteen days from which to complete the time within which the application for the writ of certiorari can be made under this act shall be the time when said public notice is first given. L. 1880, c. 269, § 9.

SUPPLEMENTARY PROCEEDINGS TO RECOVER TAX.—When a tax exceeding ten dollars in amount is levied by the board of trustees of a village against a person, firm, estate or corporation, residents of the county in which such village or the principal part thereof is located is returned by a village collector uncollected, for want of goods and chattels out of which to collect the same, the * * * president of the village as to a village tax, within one year thereafter, may apply on affidavit to the county judge or special county judge of the county, and obtain an order requiring such person, firm, estate or corporation to appear before such county judge, or before a referee, named in such order and answer concerning his, their or its property.

COSTS.—The same proceedings may in all respects be had as in cases supplementary to execution and the same costs and disbursements may be allowed against the person, firm, estate or corporation examined concerning his, their or its property, but none shall be allowed in his, their or its favor. The tax, if collected, shall be paid over to the treasurer of the village to which the same belongs, and the costs collected shall belong to the party instituting the proceeding, and shall be applied by him to the payment of the expense of such proceeding. A * * president of a village shall have no compensation for such proceeding. L. 1867, c 361, § 1, as amd. L. 1881, c 640.

APPLIES TO ALL VILLAGES.—This act shall apply to all villages, whether incorporated by special act or under the general act providing for the incorporation of villages, and shall also apply to all cases where returns have already been made by * * village collectors, as well as to all cases which may hereafter arise, provided that the proceeding be commenced within one year after the collector has made his return. Id. § 2, as amd. L. 1881, c. 640.

RENEWAL OF TAX WARRANT.—It shall be lawful for any incorporated village in this state, by its trustees, to issue new warrants, or renew those which may be issued by them, or their predecessors for the collection of any village tax, from time to time, as often as such warrants shall be returned uncollected in whole or in part, during the term prescribed by its charter; but the renewing of any such warrant shall in no way affect the liability of the collector or the sureties upon the bond of the collector.—L. 1882, c. 226. 116 N. Y. 355.

MECHANIC LEINS.

LEINS FOR WORK OR MATERIALS UNDER MUNICIPAL CONTRACTS.—Any person or persons who shall hereafter as laborer, mechanic, merchant or trader, in pursuance of, or in conformity with, the terms of any contract made between any person or persons, firms or corporations, and

any municipal corporation, county, town, incorporated city or village in the state of New York, perform any labor or furnish any material toward the performance and completion of any contract made with said municipial corporation, county, town city or village, on complying with the second section of this act, shall have a lien for the value of such labor or materials, or either, upon the moneys in control of said municipal corporation, county, town, city or village, due or to grow due under said contract with said municipal corporation, county, town, city or village, to the full value of such claim or demand, and these liens may be filed and become an absolute lien to the full and par value of all such work and materials, to the extent of the amount due or to grow due on said contract, in favor of every person or persons, firms or corporations who shall be employed or furnish materials to the person or persons with whom said contract with said muicipal corporation, county, town, city or village is made, or the subcontractors of said person or persons, their assigns or legal representatives, provided that no municipal corporation, county, town, city or village shall be required to pay a greater amount than the contract price or value of the work and the materials furnished when no specific contract is made in the performance of said work by the contractor. L. 1878, c. 315, as amd L. 1892 c. 629.

NOTICE OF CLAIMS; STATEMENTS; ETC., ETC.—At any time before the whole work to be performed by the contractor for the municipal corporation, county, town, city or village, is completed or accepted by the municipal corporation, county, town, city or village, and within thirty days after the same is so completed or accepted, any claimant may file with the head of the department or bureau having charge of said work, and with the financial officer of said municipal corporation, county, town city or village, notice, stating the residence of the claimant, verified by such claimant's oath or affirmation, stating the amount claimed, from whom due, and if not due, when it will be due, giving the amount of the demand after deducting all just credits and offsets, with the name of the person or persons, firms or corporations, by whom employed, or to whom materials were furnished; also a statement of the terms, time given, conditions of the contract, and also that the work was done or materials furnished to said contractor, and were actually performed or used in the execution or completion of said contract with said municipal corporation, county, town, city or village, but no variance as to the name of the contractor shall effect the validity of the said claim or lien. Id. § 2.

LIENS TO BE ENTERED—The financial officer of said municipal corporation, county, city or village, shall enter the claims in a book kept for that purpose by him, called the "lien book." Such entry shall contain the name and residence of the claimant, the name of the contractor, the mount and date of the filing, and a brief designation of the contract upon which the claim is made. Id. § 3.

ACTION TO FORECLOSE.—No lien provided for in this act shall be binding upon the property therein described unless an action be commenced within ninety days from the filing of the same, and of pendency of said action be filed with

the financial officer of the municipal corporation, county, town, city or village. Id. § 4.

WHEN LIEN ATTACHES.—The lein shall attach from the time of filing thereof to the extent of the liability of the contractor for the claim perferred upon any funds which may be due to said contractor from said municipal corporation, county, city, town or village, under the contract against which the lien is filed. Id. § 5.

ENFORCEMENT OF CLAIMS; JURISDICTION OF COURTS.—Any claimant who has filed the notice mentioned in the second section of this act, may enforce said claim against the said fund therein designated, and against the person or persons, firms or corporations liable for the debt by a civil action. Actions to determine or terminate said liens may be commenced by the contractor or said municipal corporation, county, town, city or village, in any court of competent jurisdiction. Id. § 6.

PARTIES TO ACTION; PRIORITY OF CLAIMS.—The plaintiff must make all parties who have filed claims, the contractor, and the said municipal corporation, county, town, city or village, parties defendant, and as to all parties against whom no personal claim is made, the plaintiff may, with the summons, serve a notice stating briefly the object of the action, and that no personal claim is made. But all parties who have filed claims under this act may, by answer in such action, set forth the same, and the court in which the action is brought may decide as to the extent, justice and priority of the claims of all the parties to the action. Id. § 7.

JUDGMENT IN ACTION TO FORECLOSE; EXECUTION.—The court in which the action is brought shall determine the validity of the lien, the amount due from the debtor to the contractor under his contract, and from the contractor to the respective claimants, and shall render judgment, directing that the said municipal corporation, county, town, city or village shall pay over to the claimants for work done and material furnished in the execution of the said contract or contracts, whose claims or liens it shall hold to be valid and just, in order of their priority as determined by said court, to the extent of the sum found due to said claimants from their contractor so much of said funds or money which may be due from the said municipal corporation, county, town, city or village, to the contractor, under his contract, against which the lien is filed, and* will satisfy their lien or claims, with interest and costs, to the extent of the amount due from said municipal corporation, county, town, city or village to said contractor. The judgment rendered under this act may be enforced by execution, and an appeal may be taken therefrom in the same time and manner as in civil actions. Id § 8.

SUCCESSIVE LIENS.—In case of successive liens, or a number of liens, in favor of different persons, their rights and priorities shallbe determined as follows: Persons standing in equal degrees as co-laborers, or various persons furnishing materials shall have priority according to the date of the filing of their liens. When several lien notices are filed for the same demand, the judgment shall provide for the proper payments according to priority, so that, under liens filed, double payments shall not be required. Id. § 9.

CONSOLIDATING ACTIONS.—When separate actions are commenced, the court in which the first action was brought may, upon the application of the said municipal corporation, county, town, city or village, consolidate them. Id. § 10.

COSTS—Costs in all actions shall rest in the discretion of the court, and shall be awarded to or against the plaintiff or defendants, or any or either of them, as may be just. Id. § 11.

PERSONAL ACTIONS—Nothing contained in this act shall be construed to impair or affect the right of any debt which may be due for work done or materials furnished to maintain a personal action to recover such debt against the person liable therefor. Id. § 12.

DISCHARGING LIEN—The lien may be discharged as follows: First. By filing a certificate of the claimant, or his successor in interest, duly acknowledged and proved, stating that the lien is discharged. Second. By lapse of time when ninety days have elapsed since the filing of the claim, and no action shall have been commenced to enforce the claim. Third. By satisfaction of any judgment that may be rendered in actions to foreclose said liens or claims. Id. § 13.

TERM "CONTRACTOR" DEFINED.—The term "contractor" as used in this act, shall be construed as meaning the person or persons, firms or corporations with whom the contract with the said municipal corporation, county, town, city or village, is made, his assigns or legal representatives. Id. § 14.

APPLICATION OF ACT—This act shall apply to and include all cases and contracts under which work and materials have heretofore been, or shall hereafter be done and furnished upon any land, the title of which was, at the time of the making of the contract, and now is in any municipal corporation, county, town, city or village, and for the performance of which appropriations have been, or shall hereafter be made and raised by any municipal corporation, county, town, city or village; and shall apply to and include actions now pending for work done and materials furnished under any such contract. Id. § 15.

LIBRARIES AND LIBRARY ASSOCIATIONS.

PUBLIC AND FREE LIBRARIES AND MUSEUM.—All provisions of sections thirty-five to fifty-one shall apply equally to libraries and museums, and to combine libraries and museums, and the word library shall be construed to include reference and circulating libraries and reading-rooms. L. 1892, c. 378, § 35.

ESTABLISHMENT.—By majority vote at any election any city, village, town school district, or other body authorized to levy and collect taxes, or by vote of its common council, any city, or by vote of its trustees, any village may establish and maintain a free public library, with or without branches, either by itself or in connection with any other body authorized to maintain such library. Whenever twenty-five taxpayers shall so petition, the question of providing library facilities shall be voted on at the next election or meeting at which taxes may be voted, provided

that due public notice shall have been given of the proposed action. Id. § 36.

SUBSIDIES.—By similar vote money may be granted toward the support of libraries not owned by the public but maintained for its welfare and free use; provided, that such libraries shall be subject to the inspection of the regents and registered by them as maintaining a proper standard, and the regents shall certify what number of the books circulated are of such a character as to merit a grant of public money, and the amount granted yearly to librares on the basis of circulation shall not exceed ten cents for each volume of the circulation thus certified by the regents. Id. § 37.

TAXES.—Taxes in addition to those otherwise authorized, may be voted by an authority named in section thirty-six and for any purpose specified in section thirty-six and thirty-seven, and shall, unless otherwise directed by such vote, be considered as annual appropriations therefor till changed by further vote, and shall be levied and collected yearly, or as directed, as are other general taxes; and all money received from taxes or other sources for such library fund and expended only under direction of the library trustees on properly authenticated vouchers. Id. § 38.

TRUSTEES.—Such libraries shall be managed by trustees who shall have all the powers of trustees of other educational institutions of the university as defined in this act; provided, unless otherwise specified in the charter, that the number of trustees shall be five; that they shall be elected by the legal voters, except that in cities they shall be appointed by the mayor with the consent of the common council, from citizens of recognized fitness for such position; that the first trustee determined by lot whose term of office shall expire each year and that a new trustee shall be elected or appointed annually to serve for five years. Id. § 39.

INCORPORATION.—Within one month after taking office, the first board of trustees shall apply to the regents for a charter in accordance with the vote establishing the library. Id. 40

REPORTS.—Every library or museum which receives state aid or enjoys any exemption from taxation or other privilege not usually accorded to business corporations shall make the report required by section twenty-five of this act, and such report shall relie e the institution from making any report now required by statue or charter to be made to the legislature, or to any department, court or other authority of the state. These reports shall be summarized and transmitted to the legislature by the regents with the annual report of the state library and state museum. Id. § 41.

USE.—Every library established under this act shall be forever free to the inhabitants of the locality which establishes it, subject always to the rules of the library trustees, who shall have authority to exclude any person who willfully violates such rules; and the trustees may, under such conditions as they think expedient, extend the priviledges of the library to persons living outside such locality. Id. 42.

INJURIES TO PROPERTY.—Whoever intentionally injures, defaces or destroys any property belonging to or deposited in any incorporated library, reading-room, museum, or other educational institution, shall be punished by imprisonment in a state prison for not more than three years, or in a county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment. Id. 43.

DETENTION.—Whoever willfully detains any book, newspaper, magazine, phamplet, manuscript or other property belonging to any public or incorporated library, reading-room, museum or other educational institution, for thirty days after notice in writing to return the same, given after the expiration of the time which by the rules of such institution, such article or other property may be kept, shall be punished by a fine of not less than one nor more than twenty-five dollars, or by imprisonment in the jail not exceeding six months, and the said notice shall bear on its face a copy of this section. Id. 44.

TRANSFER OF LIBRARIES.—Any corporation, association, school district or combination of districts may, by legal vote duly approved by the regents, transfer the ownership and control of its library, with all its appurtenances to any public library in the university, and thereafter said library shall be entitled to receive any money, books or other property from the state or other sources, to which said corporation, association or district would have been entitled but for such transfer, and the trustees or body making the transfer shall thereafter be relieved of all responsibility pertaining to property thus transferred. Id. 45.

LOCAL NEGLECT.—If the local authorities of any library supported wholly or in part by state money, fail to provide for the safety and public usefulness of its books, the regents shall in writing notify the trustees of said library what is necessary to meet the state's requirements, and on such notice all its rights to further grants of money or books from the state shall be suspended until the regents certify that the requirements have been met; and if said trustees shall refuse or neglect to comply with such requirements within sixty days after service of such notice, the regents may remove them from office and thereafter all books and other library property wholly or in part paid for in state money shall be under the full and direct control of the regents who, as shall seem best for public interests, may appoint new trustees to carry on the library, or may store it or distribute its books to other libraries. Id. 46.

LOAN OF BOOKS FROM STATE.—Under such rules as the regents may prescribe, they may lend from the state library, duplicate department, or from books specially given or bought for this purpose, selections of books for a limited time to any public library in this state under visitation of the regents, or to any community not yet having established such library, but which has conformed to the conditions required for such loans. Id. 47.

ADVICE AND INSTRUCTION FROM STATE OFFICERS.—The trustees or librarian or any citizen interested in any public library in this state shall be entitled to ask from the officers of the state library any needed advice or instruction as to a library building, furniture and equipment, government

and service, rules for readers, selecting, buying, cataloging, shelving, lending books, or any other matter pertaining to the establishment, reorganization or administration of a public library. The regents may provide for giving such advice and instruction either personally or through printed matter and correspondence, either by the state library staff or by a library commission of competent experts appointed by the regents to serve without salary. The regents may on request, select or buy books, or furnish instead of money apportioned, or may make exchanges and loans through the duplicate department of the state library. Such assistance shall be free to residents of this state as far as practicable, but the regents may, in their discretion, charge a proper fee to non-residents or for assistance of a personal nature or for other reason not properly an expense to the state, but which may be authorized for the accommodation of the users of the library. Id. 48.

USE OF FEES AND FINES.—The regents may use receipts from fees, fines, gifts from private sources, or sale of regents' bulletins and similar printed matter, for buying books or for any other proper expenses of carrying on their work. Id. 49.

APPORTIONMENT OF PUBLIC LIBRARY MONEY.—Such sum as shall have been appropriated by the legislature as public library money shall be paid annually by the treasurer, on the warrant of the comptroller, from the income of the United States deposit funds according to an apportionment to be made for the benefit of free libraries by the regents in accordance with their rules and authenticated by their seal; provided that none of this money shall be spent for books except those approved or selected and furnished by the regents; that no locality shall share in the apportionment unless it shall raise and use for the same purpose not less than an equal amount from taxation or other local sources; that for any part of the apportionment not payable directly to the library trustees the regents shall file with the comptroller proper vouchers showing that it has been spent in accordance with law exclusively for books for free libraries or for proper expenses incurred for their benefit; and that books paid for by the state shall be subject to return to the regents whenever the library shall neglect or refuse to conform to the ordinances under which it secured them. Id. 50.

AID TO PUBLIC LIBRARIES BY TRUSTEES.—Any library association duly incorporated under the laws of this state, and located in any village * * * of the state, having a population of not exceeding thirty thousand, which owns real estate of the value of at least four thousand dollars, or pays rent of at least three hundred dollars per annum in said village * * * and also owns at least five thousand volumes and maintains the same as a free public library, or a free library for the free circulation of books among the inhabitants of said village * * * and which shall have actually circulated in the twelve months next preceding the date of the application herein authorized, at least fifteed thousand volumes, is hereby authorized to apply to the board of trustees, * * * or other proper authority for the appropriation of a sum not exceeding one thousand dollars. L. 1887, c. 313, § 1.

CIRCULATION DEFINED.—The term "circulation" as used in this act, is hereby defined to mean the aggregate number of volumes actually withdrawn from the library or libraries of any said library association, by the people of said village * * * for use in their homes or places of business. Id. § 2.

TAX.—The board of trustees of villages; * * * are hereby authorized and empowered to make proper provision for the payment of the appropriation as herein provided for, and also to raise by tax in the manner now provided by law, the amount of the appropriation herein provided for in addition to the sum which they are now authorized to raise. Id. § 4.

PUBLIC OFFICERS.

QUALIFICATIONS FOR HOLDING OFFICE.—No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, be of full age, a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he shall be chosen, or within which the electors electing him reside, or within which his official functions are required to be exercised. L. 1892, c. 681. § 3.

HOLDING OVER AFTER EXPIRATION OF TERM.—Every officer except a judicial officer, a notary public, a commissioner of deeds and an officer whose term is fixed by the constitution, having duly entered on the duties of his office, shall, unless the office shall terminate or be abolished, hold over and continue to discharge the duties of his office, after the expiration of the term for which he shall have been chosen, until his successor shall be chosen and qualified; but after the expiration of such term, the office shall be deemed vacant for the purpose of choosing his successor. An officer so holding over for one or more entire terms, shall, for the purpose of choosing his successor, be regarded as having been newly chosen for such terms. An appointment for a term shortened by reason of a predecessor holding over, shall be for the residue of the term only. Id. §5

OFFICIAL OATHS.—Every officer shall take and file the oath of office required by law before he shall be entitled to enter upon the discharge of any of his official duties. An oath of office may be administered by any officer authorized to take, within the state the acknowledgement of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed, or may be administered to any member of a body of officers, by a presiding officer or clerk, thereof, who shall have taken an oath of office. The oath of office of a notary public or commissioner of deeds shall be filed in the office of the clerk of the county in which he shall reside. * * * Id. § 10 as am'd. L. 1893, c. 318.

OFFICIAL UNDERTAKINGS.—Every official undertaking, when required by or in pursuance of law to be hereafter executed or filed by any officer, shall be to the effect that he will faithfully discharge the duties of his office and promptly account for and pay over all moneys or property received by him as such officer, in accordance with law, or in default thereof, that the parties executing such under-

taking will pay all damages, costs and expenses resulting from such default, not exceeding a sum, if any, specified in such undertaking. The undertaking of a municipal officer shall, if not otherwise provided by law, be approved as to its form and the sufficiency of the sureties by the chief executive officer or by the governing body of the municipality and be filed with the clerk thereof. The approval of such governing body, may be by resolution, a certified copy of which shall be attached to the undertaking. The sum specified in an official undertaking shall be the sum for which such undertaking shall be required by or in pursuance of law to be given. If no sum, or a different sum from that required by or in pursuance of law, be specified in the undertaking, it shall be deemed to be an undertaking for the amount so required. If no sum be required by or in pursuance of law to be so specified, and a sum be specified in the undertaking, the sum so specified shall not limit the liability of the sureties therein. Every official undertaking shall be executed and duly acknowledged by a least two sureties, each of whom shall add thereto his affidavit that he is a freeholder or householder within the state, stating his occupation and residence * * * and a sum which he is worth over and above his just debts and liabilities and property exempt from execution. The aggregate of the sums so stated in such affidavits must be at least double the amount specified in the undertaking. The failure to execute and * official undertaking in the form or by the number of sureties required by or in pursuance of law, or of a surety thereto to make an affidavit required by or in pursuance of law, or in the form so required, or the ommission from such an undertaking of the approval required by or in pursuance of law, shall not effect the liability of the sureties therein. Id. § 11.

Force and Effect of Official Undertaking.—An officer of whom an official undertaking is required, shall not receive any money or property as such officer, or do any act affecting the disposition of any money or property which such officer is entitled to receive or have the custody of, before he shall have filed such undertaking; and any person having the custody or control of any such money or property shall not deliver the same to any officer of whom an undertaking is required until such undertaking shall have been given. If a public officer required to give an official undertaking, enters upon the discharge of any of his official duties before giving such undertaking, the sureties upon his undertaking subsequently given for or during his official term shall be liable for all his acts and defaults done or suffered and all moneys and property received during such term prior to the execution of such undertaking, or if a new undertaking is given, from the time notice to give such new undertaking is served upon him. Every official undertaking shall be obligatory and in force so long as the officer shall continue to act as such and until his successor shall be appointed and duly qualified, and until the conditions of the undertaking shall have been fully performed. When an official undertaking is renewed pursuant to law the sureties upon the former undertaking shall not be liable for any official act done or moneys received after the due execution, approval and filing of the new undertaking. Id. § 12.

NOTICE OF NEGLECT TO FILE OATH OR UNDERTAKING.—The officer or body making the appointment or certificate of election of a public officer shall, if the officer be required to give an official undertaking to be filed in an officer other than that in which the written appointment or certificate of election is to be filed, forthwith give written notice of such appointment or election to the officer in whose office the undertaking is to be filed. If any officer shall neglect, within the time required by law, to take and file an official oath, or execute and file an official undertaking, the officer, with whom or in whose office such an undertaking is required to be filed, shall forthwith give notice of such neglect, if of an appointive officer, to the authority appointing such officer; if of an elective officer, to the officer, board or body authorized to fill a vacancy in such office, if any, or if none and a vacancy in the office may be filled by a special election, to the officer, board or body authorized to call or give a notice of a special election to fill such vacancy * * Id. § 13.

VALIDATION OF OFFICIAL ACTS PERFORMED BEFORE FILING OFFICIAL OATH OR UNDERTAKING.—If a public officer, duly chosen, has heretofore entered, or shall hereafter enter on the performance of the duties of his office, without taking or filing an official oath, or executing or filing an official undertaking, as required by the constitution, or by any general or special law, his acts as such officer, so performed, shall be as valid and of as full force and effect as if such oath had been duly taken and filed, and as if such undertaking had been duly executed and filed, notwithstanding the provisions of any general or special law declaring any such office vacant, or authorizing it to be declared vacant, or to be filled as in case of vacancy, or imposing any other forfeiture or penalty for omission to take or file any such oath, or to execute or file any such undertaking; but this section shall not otherwise affect any provision of any general or special law declaring any such office vacant, or authorizing it to be declared vacant, or to be filled as in case of vacancy, or imposing any other forfeiture or penalty, by reason of the failure to take or file any such oath or to execute or file any such undertaking; and this section shall not relieve any such officer from the criminal liability imposed by section forty-two of the penal code, for entering on the discharge of his official duties without taking or filing such oath or executing or filing such undertaking. Id. § 15, added. by L. 1894, c. 403.

WHEN OFFICE BECOMES VACANT.—Every office shall become vacant on the happening of either of the following events before the expiration of the term thereof:

1. The death of the incumbent.
2. His resignation.
3. His removal from office.
4. His ceasing to be an inhabitant of the state, or if he be a local officer, of the political subdivision or municipal corporation of which he is required to be a resident when chosen.
5. His conviction of a felony or of a crime involving a violation of his oath of office.
6. The judgment of a court, declaring void his election or appointment, or that his office is forfeited or vacant.
7. His refusal or neglect to file his official or undertaking, if one is required, before or within fifteen days after the

commencement of the term of office for which he is chosen, if an elective office, or if an appointive office, within fifteen days after notice of his appointment, or within fifteen days after the commencement of such term; or to file a renewal undertaking within the time required by law, or if no time be so specified, within fifteen days after notice to him in pursuance of law, that such renewal undertaking is required. When a new office or an additional incumbent of an existing office shall be created, such office shall for the purposes of an appointment or election, be vacant from the date of its creation, until it shall be filled by election or appointment. Id. § 20.

RESIGNATIONS.—Public officers may resign their offices as follows: The officer of any other municipal corporation, (except town and county officers), to the clerk of the corporation. Id. § 21, sub. div. 7.

Every resignation shall be in writing addressed to the officer or body to whom it is made. If addressed to an officer it shall take effect upon delivery to him at his place of business or when it shall be filed in his office. Id. sub. div. 8.

CIVIL SERVICE; VETERANS TO BE APPOINTED.—In every public department and upon all public works of the state of New York, and of the cities, towns and villages thereof, and also in non-competitive examinations under the civil service rules, laws, or regulations of the same, wherever they apply, honorably discharged union soldiers and sailors shall be preferred for appointment and employment; age, loss of limb or other physicial impairment which does not in fact, incapacitate, shall not be deemed to disqualify them, provided they possess the business capacity necessary to discharge the duties of the position involved. And, in all cases, the person having the power of employment or appointment, unless the statute provides for a definite term, shall have the power of removal only for incompetency and conduct inconsistent with the position held by the employes or appointee; and in case of such removal, or such refusal to allow the preference provided for in this act of and for any such honorably discharged union soldier or sailor, or marine, for partisan, political, personal or other cause, except incompetency, and conduct inconsistent with the position so held, such soldier, sailor or marine, so wrongfully removed, or refused such preference shall have a right of action in any court of competent jurisdiction for damages as for an act wrongfully done, in addition to the right of mandamus; the burden of proving such incompetency and inconsistent conduct, as a question of fact, shall be upon the defendant. But the provisions of this act shall not be construed to apply to the position of private secretary or deputy of any official or department, or to any other person holding a strictly confidential position. L. 1884, c. 312, as am'd. L. 1894, c. 716.

ELECTION LAW.

NOMINATIONS FOR VILLAGE OFFICERS.—Certificates of nomination of candidates for officers of a village, to be elected at a different time from a general election, shall be filed with the clerk of such village. L. 1892, c. 680, § 58.

FILING CERTIFICATES.—Party nominations shall be filed not less than six and not more than twenty days, before the election. Independent nominations not less than five nor more than twenty days. Id. § 59.

POSTING NOMINATIONS.—Each village clerk shall cause at least ten copies of a list of all nominations to office filed with him, to be conspicuously posted in ten public places in the village, at least one day before the village election, one of which copies shall be so posted at each polling place of such village election. Id. § 62.

DECLINATION OF NOMINATION.—The name of a person nominated for a village office, shall not be printed on the official ballots, if he shall before the ballots are printed, give written notice that he declines the nomination to the village clerk. Id. § 64.

FILLING VACANCIES IN NOMINATIONS.—If a nomination is duly declined or a nominee dies before election day, or if any certificate of nomination is insufficient or inoperative, any vacancy thus occasioned may be filled in the manner required for original nomination, or if it be an independent nomination, in the manner required for filling vacancies in the original certificate. If it be a party nomination and the primary convention making it has delegated to a committee the power to fill vacancies, such committee may fill the same. The chairman and secretary of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the new nominee, the office for which he is nominated, the name of the original nominee, the fact that the committe was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination. The certificate so made shall be executed and sworn to in the manner prescribed for the original certificate of nomination, and shall be filed in the office in which the original certificate is filed, at least two days before the election, if filed in the office of a village clerk. Id. § 66.

NUMBER OF OFFICIAL BALLOTS.—The number of official ballots, of each kind to be provided for each polling place of a village election, shall be at least twice the number of persons who will be entitled to vote thereat, as nearly as can be estimated by the officer charged with the duty of providing such ballots. Id. § 85.

VILLAGE CLERK TO PROVIDE BALLOTS.—If a village election shall be held upon a different day from a general election, the clerk of such village shall provide the requisite number of such ballots and cards of instruction for each polling place. The official ballots shall be in his possession at least one day, and the sample ballots at least two days before such election. Id. 86.

NOTE—For the further provisions of the election law see ch. 680. L. 1892.

ELECTIONS BY BALLOT MACHINES.—Hereafter within this state any town or incorporated village may, by a majority vote of the town board, or board of trustees of such village at a meeting thereof, held not less than ten days before the time of the annual town meeting, or village election thereof is to be held, determine upon, purchase and order the use of one or more automatic ballot-cabinets at elections of

town or village officers; and thereafter at all elections of town officers in said town or officers of such village, until otherwise determined by said town board or board of trustees of such village said automatic ballot cabinets shall be used for the purpose of voting for the officers to be elected at such elections and for registering and counting the ballots cast thereat. L. 1894, c. 765 § 1.

THE BALLOT; REGULATIONS.—The ballot by which the elector chooses or votes in said automatic ballot-cabinets shall be in secret, and shall be a card board or paper ticket, or emblem, which shall contain written or printed, or partly written or partly printed, the names of the persons for whom the elector intends to vote, and shall designate the office to which each person so named is intended by him to be chosen, and shall not contain any other printed or written device or distinguishing marks, excepting a heading or caption of its political or party designation, of not exceeding five words, and may be of different colors, and if there shall be found in the ballot-boxes more ballots of the respective political parties than were indicated by the automatic registers, such excess of ballots of the respective parties shall be rejected; and the canvassers shall also make a true canvass of split tickets, and make an accurate return of the votes cast for the respective candidates. The town board or board of trustees of such village may make regulations for the use of such ballot cabinets, but such regulations shall require all actions and proceedings of the election officers to be in public in the presence of watchers who may be appointed by the different political parties or candidates thereof, and shall not be inconsistent with law further than may be necessary by reason of the use of such ballot cabinets for the purpose of holding elections, counting and canvasing the ballots thereof. Id. § 2.

OFFICERS TO CARRY OUT REGULATIONS.—All election officers are hereby charged with the proper carrying out of necessary regulations for the use of any automatic voting machine provided in their respective towns or villages. Id. § 3.

VIOLATION A MISDEMEANOR.—Any violation of the provisions of this act or any wilful attempt to injure or render ineffectual any such automatic voting machine provided in accordance with the provisions of this act shall be deemed a misdemeanor. Id. § 4.

ACTION FOR PROTECTION OF TAXPAYERS.

ACTIONS TO RESTRAIN ILLEGAL OFFICIAL ACTS; PROCEEDINGS; ETC.—All officers, agents, commissioners and other persons acting, or who have acted, for and on behalf any of * * village * * in this state, and each and every one of them, may be prosecuted, and an action or actions may be maintained against them to prevent any illegal official act on the part of any such officers, agents, commissioners or other persons, or to prevent waste or injury to, or to restore and make good, any property, funds or estate of such * * village * * by any person or corporation whose assessment, or by any number of persons or corporations, jointly, the sum of whose assessments shall amount to one thousand dollars, and who shall be liable, to pay taxes on such assessment or assessments in the county, town village or municipal corporation to prevent the waste

or injury of whose property the action is brought, or who have been assessed or paid taxes therein upon any assessment or assessments of the above-named amount within one year previous to the commencement of any such action or actions. Such person or persons, corporation or corportions upon the commencement of such actions, shall furnish a bond to the defendant therein, to be approved by a justice of the supreme court or the county judge of the county in which the action is brought, in such penalty as the justice or judge approving the same shall direct, but not less than two hundred and fifty dollars, and to be executed by any two of the plaintiff, if there be more than one party plaintiff, providing said two parties plaintiff shall severally justify in the sum of five thousand dollars. Said bond shall be approved by said justice or judge and be conditioned to pay all costs that may be awarded the defendant in such action if the court shall finally determine the same in favor of the defendant. The court shall require, when the plaintiffs shall not justify as above mentioned, and in any case may require two more sufficient sureties to execute the bond above provided for. Such bond shall be filed in the office of the county clerk of the county in which the action is brought, and a copy shall be served with the summons in such action. If an injunction is obtained as herein provided for, the same bond may also provide for the payment of the damages arising therefrom to the party entitled to the money, the auditing, allowing, or paying of which was enjoined, if the court shall finally determine that the plaintiff is not entitled to such injunction. In case the waste or injury complained of consists in any board, officer or agent in any * * * village * * * by collusion or otherwise, contracting, auditing, allowing or paying, or conniving at the contracting, audit, allowance or payment of any fraudulent, illegal, unjust or inequitable claims, demands or expenses, or any item or part thereof against or by such * * * village, or by permitting a judgment or judgments to be recovered against such * * * village * * * * or against himself in his official capacity, either by default or without the interposition and proper presentation of any existing legal or equitable defenses, or by any such officer or agent, retaining or failing to pay over to the proper authorities any funds or property of any * * * village, after he shall have ceased to be such officer or agent, the court may, in its discretion, prohibit the payment or collection of any such claims, demands, expenses or judgments, in whole or in part, and shall enforce the restitution and recovery thereof, if heretofore or hereafter paid, collected or retained by the person or party heretofore or hereafter receiving or retaining the same, and also may, in its discretion, adjudge and declare the colluding or defaulting official personally responsible therefor, and out of his property, and that of his bondsmen, if any, provide for the collection or repayment thereof, so as to indemnify and save harmless the said * * * village * * * from a part or the whole thereof; and in case of a judgment the court may, in its discretion, vacate, set aside and open said judgment, with leave and direction for the defendant therein to interpose and enforce any existing legal or equitable defense therein, under the direction of such person as the court may, in its judgment or order, designate and appoint. All

books of minutes, entry or account, and the books, bills, vouchers, checks, contracts or other papers connected with or used or filed in the office of, or with any officer, board or commission acting for or on behalf of any village * * * in this state are hereby declared to be public records, and shall be open, subject to the reasonable regulations to be prescribed by the officer having the custody thereof, to the inspection of any taxpayer. This section shall not be so construed as to take away any right of action from any * * * village, or from any public officer, but any right of action now existing, or which may hereafter exist in favor of any * * * village * * * or in favor of any officer thereof, may be enforced by action or otherwise by the persons hereinbefore authorized to prosecute and maintain actions; and whenever by the provisions of this section an action may be prosecuted or maintained against any officer or other person, his bondsmen, if any, may be joined in such action or proceeding and their liabilities as such enforced by the proper judgment or direction of the court; but any recovery under the provisions of this act shall be for the benefit of and shall be paid to the officer entitled by law to hold and disburse the public moneys of such * * * village * * and shall, to the amount thereof, be credited the defendant in determining his liability in the action by the * * village, or * * public office. The provisions of this act shall apply as well to those cases in which the body, board, officer, agent, commissioner or other person above named has not, as to those in which it or he has jurisdiction over the subject-matter of its action. L. 1881, c. 531, as am'd L. 1892, c. 603.

79 N. Y. 171 ; 98 id. 222, 239 ; 105 id. 534 ; 64 How. Pr. 496 ; 51 N. Y. Super. 227, 238 ; 52 id. 53 ; 28 Hun. 381 ; 35 id. 335 ; 42 id. 549 ; 26 id. 161 ; 27 id. 167 ; 37 id. 47 ; 46 id. 82, 85; 47 id. 47 ; 57 id. 43 ; 13 Dal , 17 ; 22 Abb. N. C. 92, n.; 13 id. 149 ; 4 Civ. Pro. 436 ; 7 id. 14 ; S. C. 52 N. Y. Super 76 ; rev'g, 51 N Y. Super. 245 ; 1 How. Pr. N. S. 209, 238; 1 N. Y. St. R. 544.

CODE CIVIL PROCEDURE.

ORDINANCES MAY BE READ IN EVIDENCE.—An act, ordinance, resolution, by-law, rule or proceeding of the * * board of trustees of an incorporated village, or of a local board of health of a city, town or incorporated village * * within the state, may be read in evidence, either from a copy thereof, certified by the village clerk, clerk or secretary of the local board of health, or from a volume printed by authority of the board of trustees of the village or the local board of health * * Code Civ. Pro. § 941 as am'd. L. 1894, c. 203.

PROCEEDINGS AT SESSIONS OF BOARD—EVIDENCE.—Any act, ordinance, resolution, by-law, rule or proceeding of * * of the board of trustees of an incorporated village * * * * any recital of occurrences taking place at the sessions of any thereof, may be read in evidence on any trial, examination or proceeding, whether civil or criminal, either from a copy thereof certified by the clerk of the * * village * * or from a volume printed by authority of the * * board of trustees of any incorporated village. L. 1879, c. 211.

NO BOND ON APPEAL.—Upon an appeal, taken by a domestic municipal corporation, the service of the notice of appeal perfects the appeal, and stays the execution of the judgment or order appealed from, without an undertaking, or other security; except that where an appeal is taken as prescribed in title second, third or fourth of this chapter, (appeal to court of appeals, to Supreme Court from an inferior court, or to the General Term of Supreme or Superior Court) the court in or from which the appeal is taken, may, in its discretion, require security to be given. In that case, the form, nature, and extent of the security, not exceeding that which is required in a like case, from a natural person, and the time and manner in which it must be given, must be prescribed by the order of the court; and the mayor, comptroller, or counsel to the corporation, may execute, in behalf of the corporation, an undertaking, so required to be given. Cod. Civ. Pro. § 1314, as am'd L. 1877, c. 416.

ACTION FOR CUTTING TREES, ETC.—If any person cuts down and carries off any wood, underwood, tree or timber, or girdles or otherwise despoils a tree on the * * commons or other land of a * * village * * without having right or privilege on those lands, or license from the proper officer; an action may be maintained against him by the * * village * * Id. § 1667.

29, N. Y. 9; 70 id 147; 4 Hun. 266, 8 Johns 342; 1 Cow. 175; 4 Denio 422.

DAMAGES.—Treble damages may be asked and recovered unless the jury find by their verdict affirmatively:

1. That the act was done causally and involuntary, or that the defendant when he committed the injury had probable cause to believe that the land was his own.

2. That the timber was taken for the purpose of repairing a public road or bridge by authority of a commissioner or overseer of highways. Id. § 1668.

8 Johns, 264; 25 Wend. 420; 29 N. Y. 9; 25, id 123; 27 How. 51; 2 Wend 241;

INDORSEMENT OF SUMMONS IN ACTION FOR PENALTY.—In an action to recover a penalty or forfeiture, given by a statute, if a copy of the complaint is not delivered to the defendant with a copy of the summons, a generel reference to the statute must be endorsed upon the copy of the summons so delivered, in the following form: "According to the provisions of," etc; adding such a description of the statute, as will identify it with convenient certainty, and also specifying the section, if penalties or forfeitures are given, in different sections thereof, for different acts or omissions. Id § 1897.

61 Barb. 615; 67 id. 385; 19 id. 343; 21 id. 319; 22 id. 137; 16 How. 46; 27 id. 51.

ACTION TO PREVENT WASTE—An action to obtain a judgment, preventing waste of, or injury to, the estate, funds, or other property of a * * incorporated village of the state, may be maintained against any officer thereof, or any agent, commissioner, or other person, acting in its behalf, either by a citizen resident therein or by a corporation, who is assessed for and is liable to pay, or, within one year before the commencement of the action has paid, a tax therein. This section does not affect any right of action

in favor of a * * incorporated village, or any public officer. Id. § 1925, as am'd, L. 1892, c. 524.

59 N. Y. 2, 192 ; 64 id. 404 ; 52 How. 196 ; 53 id. 213 ; 1 Abb. N. C. 457 ; 53 id. 289 ; 7 Lans. 352 ; 9 Hun. 355.

MUNICIPAL CORPORATION TO GIVE NO BOND.—Each provision of this act, requiring a party to give security, for the purpose of procuring an order of arrest, an injunction order, or a warrant of attachment, or as a condition for obtaining any other relief, or taking any proceeding ; or allowing the court, or a judge, to require such security to be given ; is to be construed, as excluding an action brought * * by a domestic municipal corporation : or by a public officer thereof in behalf of * * such corporation ; except where the security, to be given in such an action, is specially regulated by the provision in question. Id. § 1990.

COSTS WHEN NOT ALLOWED.—Costs cannot be awarded to the plaintiff, in an action against a municipal corporation, in which the complaint demands a judgment for a sum of money only ; unless the claim upon which the action is founded, was, before the commencement of the action, presented for payment to the chief fiscal officer of the corporation. Id. § 3245.

33 How. 202 ; 15 N. Y. 512 ; 74 id. 603 ; 78 id. 601 ; 11 Hun. 218 ; 25 id. 301 ; 31 id. 514, 426 ; 32 id. 526 ; 42 id. 173 ; 41 id. 87 ; 40 id. 158 ; 13 Weekly Dig. 142 ; 18 id. 386; 25 id. 77 ; 5 St. Rep'r 92 ; 18 Abb. N. C. 56.

NOTE.—The Village Treasurer is the "Chief Fiscal Officer" 106 N. Y. 667.

CODE OF CRIMINAL PROCEDURE.

JURISDICTION OF POLICE COURTS.—Police justices have such jurisdiction, and such only, as is specially conferred upon them by statute. The courts held by police justices are called police courts, and courts of special sessions are also called police courts, and are so designated in different parts of the Code. Code crim. Pro. § 74.

6 How. 290, 48 st. Rep. 657, 20 N. Y. Sup. 791.

ELECTION OF POLICE JUSTICES.—Upon the application, in writing, of not less than twenty-five electors, inhabitants of any incorporated village in this state in which no provision now exists for the election of a police justice, the board of trustees of such village may determine, by resolution to be entered in their minutes of proceedings, that a police justice should be elected for such village; and if they so determine, the electors of the village may, at their next annual election, or at a special election to be called for the purpose, and to be conducted in the same manner as the annual election, choose a police justice who must be a resident elector of the village and thereafter a police justice must be elected in such village, at the annual charter election next preceding the expiration of a regular term, or at the next annual election after a vacancy, on the same ticket with the other elective village officers. Any vacancy must be filled by appointment by the board of trustees of the village. Id. § 75.

POLICE JUSTICE TO TAKE AND FILE OATH OF OFFICE, ETC.—A police justice elected or appointed as prescribed in the last section must, before entering upon the duties of

his office, and within fifteen days after receiving notice from the village clerk of his election or appointment, take before the clerk the constitutional oath of office, and file the same with the clerk, together with a bond, with such sureties and in such amount as shall be approved by the board of trustees of the village, conditioned for the faithful performance of his official duties. Id. § 76.

POLICE JUSTICE, HOW TO HOLD OFFICE.—A police justice elected or appointed as perscribed in section 75, holds his office as follows:

1. If elected at the first election held after the creation of the office, he must enter upon the duties of his office immediately after qualifying, as prescribed in the last section, and may hold his office until and including the thirty-first day of December in the third year succeeding his election.

2. If elected at any subsequent election, except as prescribed in the next subdivision, he must enter upon the duties of his office on the first day of January succeeding his election, and may hold his office for three years;

3. If elected to fill a vacancy, he must enter upon the duties of his office immediately after qualifying, as prescribed in the last section, and may hold his office for the unexpired term;

4. If appointed, he must enter upon the duties of his office immediately after qualifying, as prescribed in the last section, and may hold his office until his successor is elected and qualifies. Id. § 77.

COMPENSATION OF POLICE JUSTICE.—A police justice cannot retain to his own use any costs or fees, but may receive for his services an annual salary, to be fixed in villages by the board of trustees, * * except where the same is otherwise fixed by law; and such salary shall not be increased or decreased during his term of office. Id. § 78.

ORGANIZATION AND REGULATION OF POLICE.—The organization and regulation of the police in the cities and villages of this state are governed by special statutes. Id. § 100.

NUMBER ON FORCE.—The mayor or other officer having the direction of the police in a city or village, must order a force, sufficient to preserve the peace, to attend any public meeting, when he is satisfied that a breach of the peace is to be apprehended. Id. § 101.

MOBS AND RIOTS.—When persons to the number of five or more, armed with dangerous weapons, or to the number of ten or more, whether armed or not, are unlawfully or riotously assembled in a * * village * * the sheriff of the county and his under-sheriff and deputies, or president or chief executive officer of the village, and the justice of the peace or the police justices of the * * village, or such of them as can forthwith be collected, must go among the persons assembled, and command them in the name of the people of the state, immediately to disperse. Id. § 106

MUST ARREST THOSE REFUSING.—If the persons assembled do not immediately disperse, the magistrates and officers must arrest them, or cause them to be arrested, that they may be punished according to law, and for that purpose may command the aid of all persons present or within the county. Id § 107.

REFUSAL TO AID.—If a person so commanded to aid the magistrates or officers, neglect to do so, he is deemed one of the rioters, and is punishable accordingly. Id. § 108.

FAILURE TO ACT.—If a magistrate or officer having notice of an unlawful or riotous assembly, mentioned in section 106, neglects to proceed to the place of the assembly, or as near thereto as he can with safety, and to exercise the authority with which he is vested for suppressing the same and arresting the offenders, he is guilty of a misdemeanor. Id. § 109.

POSSE.—If the persons assembled, and commanded to disperse, do not immediately disperse, any two of the magistrates or officers mentioned in section 106, may command the aid of a sufficient number of persons, and may proceed in such manner as in their judgment is necessary to dispe rse the assembly, and arrest the offenders. Id § 110.

PENAL CODE.

FAILURE TO FILE CANDIDATES' STATEMENT OF EXPENSES —PENALTY.—Every candidate who is voted for at any public election held within this state shall, within ten days after such election, file as hereinafter provided an itemized statement showing in detail all the moneys contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Such statement shall give the names of the various persons who received such moneys, the specific nature of each item, and the purpose for which it was expended or contributed; there shall be attached to such statement an affidavit subscribed and sworn to by such candidate, setting forth in substance that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. The candidates for village offices shall file their statement in the office of the village clerk. Any candidate for office who refuses or neglects to file a statement as prescribed in this section shall be guilty of a misdeemeanor, and shall also forfeit his office. Penal Code § 41, am'd. L. 1892, c. 693.

ACTING IN PUBLIC OFFICE WITHOUT HAVING QUALIFIED. —A person who executes any of the functions of a public office without having taken and duly filed the required oath of office, or without having executed and duly filed the required securety, is guilty of a misdemeanor; and in addition to the punishment prescribed therefor, he forfeits his right to the office. Id. § 42.

FALSE AUDITING AND PAYING OF CLAIMS—PENALTY.—A public officer, holding or discharging the duties of an office or place of trust under the state or in any * * village, a part of whose duty is to audit, allow or pay, or take part in auditing, allowing or paying, claims or demands upon the * * village, who knowingly audits, allows or pays, or directly or indirectly consents to, or in any way connives at the auditing, allowance or payment of any claim or demand against the * * village, which is false or fraudulent, or contains charges, items or claims, which are false or fraudulent, is guilty of felony, punishable by imprisonment for a term not exceeding five years,

or by a fine not exceeding five thousand dollars, or by both. Id. § 165, as am'd. L. 1892, c. 662.

SAME; CONVICTION FORFEITS OFFICE.—A person who, being or acting as a public officer or otherwise, by willfully auditing at or paying, or consenting to, or conniving at the auditing or payment of a false fraudulent claim or demand, or by any other means, wrongfully obtains, receives, converts, disposes of or pays out or aids, or abets another in obtaining, receiving, converting, disposing of, or paying out any money or property, held, owned, or in the possession of * * any * * village * * or any board, department, agency, trustee, agent or officer thereof, is guilty of a felony, punishable by imprisonment for not less than three nor more than five years, or by a fine not exceeding five times the amount or value of the money or the property converted, paid out, lost or disposed of by means of the act done or abetted by such person, or by both such imprisonment and fine. The amount of any such fine when paid or collected shall be paid to the treasury of the corporation or body injured. A conviction under this section forfeits any office held by the offender, and renders him incapable thereafter of holding any office or place of trust. Id. § 166.

COLORED CITIZENS NOT EXCLUDED FROM CEMETERY.—No citizen of this State, can by reason of race, color or previous condition of servitude, be excluded from the equal enjoyment of any accomodation, facility or privilege furnished by * * cemetery associations. The violation of this section is made a misdemeanor, punishable by a fine of not less than fifty dollars nor more than five hundred dollars. Id. 383.

MISAPPROPRIATION, &C. OF MONIES BY PUBLIC OFFICER.—A public officer, or deputy, or clerk of any such officer, and any other person receiving money on behalf of, or for account of the People of this State, or of any department of the government of this State, or of any bureau or fund created by law, and in which the people of this State are directly or indirectly interested, or for or on account of any city, county, village or town, who:

1. Appropriates to his own use, or to the use of any person not entitled thereto, without authority of law, any money so received by him as such officer, clerk or deputy, or otherwise; or

2. FALSE ACCOUNT—Knowingly keeps any false account, or makes any false entry or erasure in any account of, or relating to, any moneys so received by him; or

3. ALTERING ACCOUNT.—Fraudulently alters, falsifies, conceals, destroys or obliterates any such account; or

4. REFUSING TO PAY OVER MONEY, &C.—Willfully omits or refuses to pay over to the people of this State, or their officer or agent authorized by law to receive the same; or to such city, village, county or town, or the proper officer or authority empowered to demand and receive the same, any money received by him as such officer when it is his duty imposed by law to pay over, or account for the same; is guilty of felony. Id. § 470.

OTHER VIOLATIONS OF LAW.—An officer or other person mentioned in the last section who willfully disobeys any provision of law regulating his official conduct, in cases

other than those specified in that section is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars. or imprisonment not exceeding two years, or both. Id. § 471.

FALSE STATEMENT TO REDUCE ASSESSMENT.—A person, who, in making any statement, oral or written, which is required or authorized by law to be made as the basis of imposing any tax or assessment or of an application to reduce any tax or assessment, willfully makes, as to any material matter, any statement which he knows to be false is guilty of a misdemeanor. Id. § 485.

UNLAWFUL INTRUSION ON STREET, &C.—A person who intrudes upon any lot or piece of land within the bounds of a city or village, without authority from the owner thereof, or who erects or occupies thereon any hut or other structure whatever, without such authority; and a person who places, erects, or occupies within the bounds of any street or avenue of a city or village, any hut or other structure, without lawful authority, is guilty of a misdemeanor. Id. § 467.

MALICIOUS MISCHIEF; KILLING BIRDS, &C., IN CEMETERY; PENALTY.—A person who willfully, digs, takes or carries away without lawful authority or consent from any lot of land, in any incorporated city or village, or from any lands included within the limits of a street or avenue laid down on a map of such city or village, or otherwise recognized or established, any earth, soil or stone, (Id. § 640 Sub. div. 4) or, kills, wounds, or traps any bird, deer, squirrel, rabbit or other animal within the limits of any cemetery or public burying ground, or of any public park or pleasure ground, or removes the young of any such animal, or the eggs of any such bird, from any cemetery, park, or pleasure ground, or exposes for sale or knowingly buys or sells any bird or animal so killed or taken (Id. Sub. div. 10) is punishable by imprisonment not exceeding six months, or a fine not exceeding two hundred dollars, or both. Id. § 640.

WILLFUL INJURY TO GRAVE STONES, &C.—A person, who not being the owner thereof, and without lawful authority, willfully injures, disfigures, removes, or destroys a grave stone, monument, work of art, or useful or ornamental improvement, or any shade tree or ornamental plant, whether situated upon private ground or upon a street, road, or sidewalk, cemetery, or public park or place, or removes from any grave in a cemetery any flowers, memorials or other tokens of affection, or other thing connected with them, is guilty of a misdemeanor. Id. § 647.

OFFICIAL NOT TO BE INTERESTED IN CONTRACT; FELONY.—A public officer or school officer, who is authorized to sell or lease any property, or to make any contract in his official capacity, or to take part in making any such sale, lease or contract, who voluntarily becomes interested individually in such sale, lease or contract, directly or indirectly, is guilty of a misdemeanor. Id. § 473.

PRESENTING FALSE CLAIMS; FELONY.—A person who, knowingly, with intent to defraud, presents, for audit, or allowance, or for payment, to any officer or board of officers of the * * village authorized to audit, or allow, or to pay bills, claims or charges, any false claim, bill, account, writing or voucher, or any bill,

account or demand, containing false or fraudulent charges, items or claims, is guilty of a felony. Id. § 672.

OFFICER ACTING WITHOUT OATH AND BOND; PENALTY.—If any person shall execute any of the duties or functions of any office, without having taken and subscribed the oath of office required by law, or without having executed and filed in the proper office any bond required by law, he shall forfeit the office to which he may have been elected or appointed, and shall be deemed guilty of a misdemeanor punishable by fine and imprisonment. 1, Revised Stat. 121, § 57, N. Y. 401; 2 Barb. 324, 31.

MISCELLANEOUS STATUTES.

VILLAGE.—The term Village means an incorporated village. L. 1892, c. 677, § 22.

VILLAGES HAVING SPECIAL CHARTERS; APPLICATION OF GENERAL ACTS.—The Trustees and officers of any village of this State created by special charter, shall have and possess the same powers as are prescribed in any general act for the incorporation of villages within this State, except as such special charter may be in conflict with any provisions of said general acts. L. 1884, c. 308. 70 Hun, 589; 53 State Rep. 741.

LEGALIZATION OF INFORMAL ACTS.—Any board of supervisors may, by a two-thirds vote of all its members, legalize the informal acts of any * * village election within such county, and the regular acts of any one or more * * village officers, performed in good faith, and within the scope of their authority. L. 1892, c. 686, § 15.

CHARTER NOT INVALID BECAUSE VILLAGE DOES NOT INCLUDE SQUARE MILE.—The charter of no village heretofore incorporated shall be declared invalid because of a failure to include within the boundaries of said village a mile square of land; and all the municipal acts of the trustees or of other officers of such village shall be deemed to be valid and binding, and of the same force and effect as if such village corporation had originally included one mile square of land within its boundaries—L. 1884, c. 423.

SPECIAL ELECTION TO BE HELD AFTER FAILURE TO HOLD ANNUAL ELECTION.—Whenever the day fixed by law for the election of the officers of any incorporated village in this State shall have passed, and no election thereof shall have been held, the Clerk of such village shall give public notice of the time and place at which a special election thereof will be held; such election shall be held at some public place within the corporate bounds of said village, and on a day not more than three, nor less than two weeks from the giving of such notice. Such notice shall be given by posting a written or printed notice signed by said Clerk, on the outer door of each place of public religious meeting in such Village, and on the outer door of each place where a public school is held in such village, and in the common room of each inn or tavern therein.

All provisions of law in relation to the holding of elections in such village shall apply to the election herein authorized, and the officers elected thereat shall hold their offices until their successors shall be chosen according to law. L. 1868, c, 462. § 1.

ACTS OF OFFICER HOLDING OVER NOT INVALID.—No act or proceeding of any duly elected officer of such village holding over in his office shall be deemed invalid by reason of the same having been had or done after his term of office had expired. Id. § 2.

ESTABLISHMENT AND SUPPORT OF FREE KINDERGARTEN SCHOOLS.—The board of education, or the public school authorities of any city or village located in a county having less than one million inhabitants, and employing a superintendent of schools, may establish and maintain one or more free kindergarten schools. The money for the support of such schools shall be raised in like manner as for the support of other public schools of the city or village.

No child under the age of four years shall be admitted to these schools and the local school authorities are hereby empowered to fix the highest age limit of children who may attend.

All teachers employed in these schools shall be licensed in the same manner as teachers employed in other public schools of this State, and shall be entitled to their distributive share in the district quotas.

The attendance of children under the age of five years who may be enrolled in these schools shall be reported separately, and shall not be counted in the distribution of public money. L. 1894, c. 556, Tit. 15, Art. 9.

TELEGRAPH WIRES UNDERGROUND; CONSENT OF TRUSTEES.—Any company or companies organized * * for the purpose of owning, * * a line or lines of electric telegraph * * are hereby authorized * * to construct any lay lines of electrical conductors under ground in any * * village * * ; provided that such company shall before laying any such line * * first obtain from the * * trustees * * permission to use the streets within such * * village, for the purposes herein set forth. L. 1879 c. 397, § 1 ; L. 1881, c. 483 ; 107 N. Y. 593.

PROPOSALS FOR NORMAL SCHOOLS.—If the proposals, made by the corporate authorities of any * * village shall be accepted, said * * authorities shall have power to raise by tax and expend the money necessary to carry the same into effect, and if in their judgment it shall be deemed expedient, they shall have the power to borrow money for such purpose, for any time not exceeding five years, and at a rate of interest not exceeding seven per cent., and issue the corporate bonds of said * * village therefor. L. 1866, § 2.

FREE PUBLIC BATHS.—It shall be lawful for any city, village or town, to establish free public baths. Any city, village or town may loan its credit or make any appropriations of its funds for the purpose of establishing free public baths. L. 1893, c. 473.

FENCE VIEWERS.—The villages and cities of this State shall be considered towns for the purposes of this article ; and the trustees of the village and the aldermen of the city shall be fence viewers therein for the purposes of this article. L. 1890, c. 569, § 134.

TOWN-HOUSE FOR TOWN AND VILLAGE.—Sites shall be purchased and houses erected by the town board in the name of the town, and shall be controlled by the town board; and

the electors may, from time to time, vote such sum of money as may be necessary to keep any town-house in repair and insured, except where the building is to be erected within the limits of an incorporated village, and the town is to contribute but a part of the expense of erecting the building, in which case the town board and the board of trustees of the village shall agree upon the terms and conditions of the use, management, control, and repair of the portions of the town house for town and village purposes respectively. Id. § 191.

PIPE LINE THROUGH VILLAGES.—No pipe line shall be constructed into or through any incorporated village * * in this State, unless authorized by a resolution prescribing the route, manner of construction and terms upon which granted, adopted at a regular meeting of the board of trustees of the village * * by a two-thirds vote of such board * * but such resolution shall not effect any private right. L. 1890, c. 566, § 46.

TAXATION OF PIPE LINE.—The real estate and personal property belonging to any pipe line corporation in this State, shall be assessed and taxed in the several villages in the same manner as real estate and personal property of railroad corporations are assessed and taxed, and such corporation may pay such taxes or commute therefor in the same manner as railroad corporations. Id. § 54.

HAWKING, ETC.—LICENSES.—The trustees of any village in this State, incorporated under special act of the legislature, and who have not the powers hereinafter conferred, shall, from and after the passage of this act, have power and authority to restrain, regulate or prevent hawking and peddling in the streets; except peddling and sale of meats, fish, fruits and farm produce, to regulate, restrain or prohibit sales by auction, and grant licenses to peddlers and auctioneers, and fix the amount to be paid therefor. L. 1883, c. 465; 54 Hun. 140; 53 id. 164; 140 N. Y. 187, 55 St. Rep. 405.

DETAILED ACCOUNT OF RECEIPTS AND EXPENSES TO BE PUBLISHED.—DEBT.—It shall be the duty of the board of trustees of each of the incorporate villages of this State, to cause to be published, once in each year and twenty days next before the annual meeting, in at least one public newspaper printed in such village or in a public newspaper that is, to all intents and purposes, a village newspaper of more than one village and that has more than one publication office, one of which is in such incorporated village, a full and detailed account of all the monies received by them or the treasurer of said village for the account and use thereof, and of all money expended therefor, giving the items of expenditures in full. Should there be no paper published in said village, they shall be required to publish the same by notice to the taxpayers, by posting in five public places in said incorporated limits. L. 1874, c. 345. L. 1875, c. 197.

Said annual report shall also state the funded and floating or temporary debt of said village. L. 1874, c. 345.

QUORUM; MAJORITY TO ACT; EVIDENCE.—Whenever three or more public officers are given any power or authority, or three or more persons are charged with any public duty to be performed or exercised by them jointly or as a board or similar body, a majority of all such persons or

officers at a meeting duly held at a time fixed by law, or by any by-law duly adopted by such board or body, or at any duly adjourned meeting of such meeting, or at any meeting duly held upon reasonable notice to all of them, may perform and exercise such power, authority or duty, and if one or more of such persons or officers shall have died or become mentally incapable of acting, or shall refuse or neglect to attend any such meeting, a majority of the whole number of such persons or officers may perform and exercise any such power, authority or duty. Any such meeting may be adjourned by a less number than a quorum. A recital in any order, resolution or other record of any proceedings of such a meeting that such meeting had been so held or adjourned, or that it had been held upon such notice to the members, shall be presumptive evidence thereof. L. 1892, c. 677, § 19.

JUDGEMENT AGAINST VILLAGE ; TAX THEREFOR.—If a sum of money or directing the payment of money shall have been, or shall hereafter be recovered against any * * incorporated village within this state, and the same remains, or shall hereafter remain unpaid, and the execution thereof is not, or shall not be stayed as required by law, or if so stayed, the stay has expired, or shall hereafter expire, it shall be the duty of the * * board of trustees of the village if the judgement is or shall be recovered against a * * incorporated village * * and the board of trustees is hereby empowered to assess, levy and cause to be collected at the same time and in like manner as other moneys for the necessary expenses of the * * village * * are then next thereafter to be assesed, levied and collected, and in addition to the moneys now authorized by law to be assessed, levied and collected for that purpose, a sum of money sufficient to pay the said judgment with the interest thereupon, and the fees and expenses chargeable by law upon the execution, if any, issued to col.ect the same. The moneys so assessed and levied as soon as collected and paid to the proper receiving and disbursing officer or officers, or so much thereof as may be necessary, shall, from time to time, be paid by him or them to the judgment creditor, administrator, or assignee, or other person entitled to receive the same by reason of the said judgment, without any deduction for his or their fees or commissions. L. 1880, c. 554, § 1.

NO RESTRICTION TO LAST SECTION.—No restriction or limitation imposed by law as to the sum to be raised in any year in any * * village shall apply to the moneys to be raised for the purposes specified in the last preceding section; but the said moneys shall be raised in addition to any sum so restricted or limited. Id. § 2.

ALTERATION OF GRADE—DAMAGES.—Whenever the grade of any street, highway, or bridge, in any incorporated village in this state shall be changed or altered so as to interfere in any manner with any building or buildings situate thereon, or adjacent thereto, or the use thereof, or shall injure or damage the real property adjoining such highway so changed or altered, the owner or owners of such building or real estate may apply to the Supreme Court in the judicial District in which such property is situated for the appointment of three commissioners to ascertain and determine the amount of damage sustained thereby; due

notice of such application shall be given to the person or persons having competent authority to make such change or alteration. L. 1883, c. 113, § 1.

50 Hun. 585; 52 Id. 380, 382; 57 Id. 590; 65 Id. 620; 70 Id. 583; 21 St. Rep. 953; 29id. 699; 31 Id 967; 53id, 832.

CONDEMNATION; POWERS AND DUTIES OF COMMISSIONERS —All the provisions of the condemnation law relative to the appointment of commissioners, their powers, duties, fees and expenses, shall be applicable to the appointment of, and the powers, duties, fees and expenses of the commissioners appointed in pursuance of the provisions hereof; but it shall be the duty of said commissioners in assessing and ascertaining the damages sustained by property owners adjoining such street or highway to take into consideration and to ascertain the value of any benefits or advantages to the property in consequence of the alteration of the grade; and in all cases the value of such benefits or improvements shall be offset against and deducted from the damages; and no person or property owner shall be entitled to recover any damages who shall, in writing, request or assent that the said grade of any such street shall be changed or altered. Id. § 2 as am'd. L. 1894, c. 172.

DAMAGES; COSTS.—All damages ascertained and determined under the provisions of this act, together with the costs of such proceedings, shall be a charge, when allowable, upon the village, town or other municipality chargeable with the maintenance of the street, highway or bridge so altered or changed; but no property owner or person instituting proceedings to recover damages under the provisions of this act shall be entitled to costs, unless the claim for such damages shall have first been presented to and rejected by, of neglected to have been adjusted for thirty d ys after presentation by the trustees or other proper officers of said village, town or municipality, nor in case such trustees or other proper officer shall have made an offer to settle or compromise such claim, which offer is declined by said property owner, unless he shall recover more than is so offered, and in case he fails to recover any damages, or less than offered, he shall be liable for the costs of such proceeding. When either party is entitled to costs under this section, they shall be the same costs, and at the same rate as prescribed in the condemnation law, and the court may grant an additional allowance of costs to the prevailing party at the same rates as provided by the condemnation law. Id. § 3, as am'd. L. 1894, c. 172.

CONSTITUTIONAL PROHIBITION AGAINST VILLAGE LOANING CREDIT, &c.—No * * village shall hereafter give any money nor property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of any association or corporation; nor shall any such * * village be allowed to incur any indebtedness except for village purposes. This section shall not prevent such * * village from making such provision for the aid or support of its poor as may be authorized by law. * * This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and

payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water, but the term of the bonds issued to provide for the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. Constitution Art. VIII, § 11. 102, N. Y. p 313; 101, id 490; 99 id 586; 96 id, 432; 76 id. 475; 40 Hun. 190, 194; 39 id. 370; 5 id. 475.

DAYS WORK EIGHT HOURS; EXCEPTION.—On and after the passage of this act, eight hours shall constitute a legal days work for all classes of mechanics, workingmen, and laborers, excepting those engaged in farm and domestic labor; but over work for an extra compensation by agreement between employer and employe is hereby permitted. L. 1870 c. 385, § 1.

APPLICATION.—This act shall apply to all mechanics, workingmen and laborers now or hereafter employed by the State, or any municipal corporation therein, through its agents or officers, or in the employ of persons contracting with the State or such corporation for performance of public works. And all such mechanics, workingmen and laborers so employed, shall receive not less than the prevailing rate of wages in the respective trades or callings in which such mechanics, workingmen and laborers are employed in said locality. And in all such employment, none but citizens of the United States shall be employed by the State, any municipal corporation therein and by persons contracting with the State or municipal corporation thereof, and every contract hereafter made by the State or any municipal corporation, for the performance of public works must comply with the requirements of this section. Id. § 2 as am'd L. 1894, c. 622.

REMOVAL FOR VIOLATING THIS ACT.—Any officer or officers, or agents of the State or of such corporation, who shall openly violate or otherwise evade the provisions of this act, shall be deemed guilty of malfeasance in office, in office, and be liable to suspension or removal accordingly by the governor or head of the department to which such officer is attached. Id. § 3.

VIOLATION BY CONTRACTORS A MISDEMEANOR.—Any party or parties contracting with the State, or any such corporation, who shall fail to comply with, or secretly evade the provisions hereof, by exacting and requiring more hours of labor for the compensation agreed to be paid per day, than is herein fixed, shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not less than one hundred nor exceeding five hundred dollars, and in addition thereto, shall forfeit such contract at the option of the State. Id. § 4.

CITIZENS PREFERRED.—In all cases where laborers are employed on any public work in this State, preference shall be given to citizens of the State of New York. L. 1884, c. 380, § 2.—(Note.—See also section 2, above.)

WEEKLY PAYMENT OF WAGES REQUIRED.—Every * * municipal corporation * * shall pay weekly to each of its employes the wages earned by such employe to within six days of the date of such payment, unless such employe

shall be absent from his regular place of labor at the usual time of payment, in which case payment shall be made at any reasonable time thereafter upon demand. L. 1890, c. 388, L. 1893, c. 717. 57 Hun. 577.

RETAIL CANAL BOATS; LICENSE; PENALTY.—It shall hereafter be lawful for * * the trustees of any incorporated village in this State, to charge and collect a license fee from all persons doing a retail business in the sale of goods of any description, except products of the farm and unmanufactured products of the forest, from canal boats in the canals of this State, or from the lands by the side of said canals, and within the boundary lines thereof, within the limits of such * * villages The * * trustees of such villages shall have the power to fix the amount to be charged for such licenses at such sum as in their discretion they may deem just. They shall also have power to enforce the collection of such license fees in the same manner as they are now severally authorized by law to enforce the collection of other license fees which they are authorized to impose. They shall also have power to adopt laws or ordinances to prevent any person making any such sale without first obtaining such license, and to punish any violation thereof by a fine not exceeding one hundred dollars, the offender to be imprisoned in the county jail until such fine be paid; not exceeding six months. L. 1880, c. 434.

EXPENSES OF ARREST, &C., WHEN VILLAGE IS IN TWO OR MORE COUNTIES.—In all cases where parts of two or more counties are included within the limits of any incorporated village within this State, the legal expenses for arrest, trial and punishment for crimes and misdemeanors where on conviction, the fine, penalty or forfeiture goes to such village, shall be borne and paid by such village; in all other cases the legal costs of arrest, trial and punishment, or either, within the jurisdiction of and entertained by a police court of such village, shall be borne and paid by the town or county in which such offense was actually committed. L. 1880 c. 235, L. 1881 c. 615.

IMPRISONMENT.—In all cases of imprisonment of persons charged with the commission of any offense, or under sentence on conviction of any offense within the jurisdiction of any police court of such village, such imprisonment shall be in the county where such offense was actually committed, or in the penitentiary nearest such village unless the county in which such offense was committed has a contract with some penal institution for the keeping of convicts, in which case the imprisonment if not in such county shall be in the penal institution with which there is such contract. L. 1881 c. 615.

NOTE.—The last two paragraphs appear to be repealed by c. 690 L. 1881.

CIVIL JURISDICTION OF POLICE JUSTICES.—The civil jurisdiction of police justices within any incorporated village of this State shall be limited to cases in which said village is a party interested, but nothing in this section shall be construed to affect police justices in villages incorporated by special acts. L. 1881, c. 690.

GIFTS TO VILLAGES IN TRUST.—Real and personal estate may be granted and conveyed to the corporation of any

* * village of this state to be held in trust for any purpose of education, or the diffusion of knowledge, or for the relief of distress, or for parks, gardens or other ornamental grounds, for the purposes of military parades and exercise or health and recreation, within or near such incorporated * * village, upon such conditions as may be prescribed by the grantor or donor, and agreed to by such corporation; and all real estate so granted or conveyed to such corporation, may be held by the same, subject to such conditions as may be prescribed and agreed to as aforesaid. L. 1840, c. 318.

DRAINAGE OF SWAMP LANDS.—Any person or persons owning or possessing any swamp, bog, meadow, or other low or wet lands within this state, who shall be desirous to drain the same and who shall deem it necessary in order thereto, that a ditch or ditches or other channels for the free passage of water should be opened through lands belonging to another person or other persons, and any person or persons who shall deem it necessary for the public health that any such swamp, bog, meadow or low or wet lands should be drained, may present a petition, duly verified, to the County Court of the County in which such lands lie or in case the same are situated in more than one county, to the Supreme Court, setting the fact and the names of the owners of all the lands to be affected by the proceedings, so far as the same can with reasonable diligence be ascertained, and praying for the appointment of three commissioners for the purposes and with the powers hereinafter set forth. Two or more applications under this section, respecting different lands or parcels within the same * * incorporated village, may be made by one proceeding or petition, or two or more such proceedings or petitions may, in the discretion of the court, upon the application of any party in interest, be consolidated, and one commission be appointed for all, and in such case the proceedings shall continue henceforth as if but one petition had been presented, or one proceeding commenced. The application provided for by this section may be made by * * the president or board of trustees of any incorporated village on behalf of said village. L. 1869, c. 888. L. 1886, c. 636.

NOTE.—For the further proceedings therein see said acts.

PRESIDENT OR TRUSTEE NOT TO ACT AS EXCISE COMMISSIONER.—No person shall be eligible to the office of commissioner of excise who is * * a president or trustee of an incorporated village * * . L. 1892 c. 401, § 3.

POLICE; INTEREST IN MANUFACTURE OR SALE OF LIQUORS, ETC., PROHIBITED.—It shall be unlawful for any excise commissioner, excise inspector, police commissioner, police inspector, captain, sergeant, roundsman, patrolman or other police official or subordinate of any police department or any commissioner of excise or inspector of excise, in several villages, towns and cities of this State, to be either directly or indirectly interested in the manufacture or sale of spirituous or malt liquors, ales, wines or beer, or to offer for sale, or recommend to any dealer therein, any spirituous or malt liquors, ales, wines or beer.—L. 1890 c. 163 § 1.

PRESUMPTIVE EVIDENCE THEREOF.—The solicitation or recommendation made to any dealer therein, to purchase

any spirituous or malt liquors, ales, wines or beer by any excise commissioner, excise inspector, police official or subordinate as hereinabove described, shall be presumptive evidence of such official or subordinate being interested in the manufacture or sale of such spirituous or malt liquors, ales, wine or beer. Id. § 2.

OFFICERS TO TAKE OATH; FALSE STATEMENTS; DISQUALIFICATION.—Every excise commissioner, excise inspector, police commissioner, or other head of police, police inspector, captain, sergeant, roundsman, patrolman or other police official or subordinate of any police department in the several villages and cities of this State, shall, within thirty days after the passage of this act, make and subscribe an oath before an officer duly authorized to take the acknowledgment of deeds, to the effect that he is neither directly or indirectly interested in the manufacture or sale of any spirituous or malt liquors, ales, wine or beer, and such of the above named officers as are hereafter elected or appointed shall make and subscribe such oath and file the same as herein provided, and a false statement in this respect thus made under oath by any excise commissioner, excise inspector, police official or subordinate hereinabove mentioned shall be deemed perjury, and be punishable as such. Said oath shall be filed in the clerks office of the town or village or with the police department of a city. A failure to take the oath in this section prescribed shall disqualify any one from holding or debar any one from continuing to hold, any office or position mentioned in this act. Id. § 3; 13 N. Y. Sup. 114.

TRUSTEES MAY DESIGNATE BANKS OF DEPOSIT.—The board of trustees shall also have the power and is hereby authorized to designate the banks in which the treasurer shall deposit all moneys belonging to the village, and require of such banks security for the payment of such moneys. The cashier of each of said banks shall report in writing to the board of trustees at each regular meeting thereof, the amount on deposit to the credit of the treasurer at the close of the bank on the day of such meeting. L. 1890, c. 236

MANNER OF DISSOLVING INCORPORATION.—When an application in writing signed by at least one-fourth as many persons entitled to vote for village officers in any incorporated village as voted for such officers at the next preceding eletion thereof, shall be made to the trustees of such village to call a meeting of the electors thereof to determine whether the same shall continue to be an incorporated village, such trustees shall call such meeting and preside as inspectors thereat, and the same shall be notified and held, the votes given thereat canvassed, the result declared and a certificate thereof made and recorded in the same manner, as nearly as practicable, as in case of the election of village officers. The polls at such meeting shall be kept open from ten o'clock in the forenoon to four o'clock in afternoon; and every such elector may vote thereat by a ballot having thereon the word "Yes" or the word "No." If the majority of all the ballots given shall have thereon the word "No," the question of disincorporation shall be again submitted to the voters at the first regular village election thereafter, provided a period of not less than six months shall intervene between the time of holding such meeting and the first regular village election thereafter;

but if a period of six months shall not intervene between the time of holding such meeting and the first regular village election thereafter, then the question shall be submitted at the second regular village election, after the holding of such meeting. The ballots cast on the question of disincorporation at such regular village elections shall be deposited in a separate box, and shall have thereon the word "yes," or the word "no," and shall be canvassed, the result declared, and a certificate thereof made and recorded in the same manner as in case of the election of the village officers. If a majority of all the ballots given shall have thereon the word "no," such village shall, at the expiration of six months from the time of holding such second meeting, cease to be an incorporated village, and within that period such trustees shall call a special meeting of such electors to direct as to the disposition of the property of said village; and at such meeting such electors may direct such property as shall remain after paying all claims for which such village shall be liable, to be disposed of in such manner as they shall deem proper. At the expiration of said six months all the records, books and papers belonging to such village shall be deposited with the town clerk of the town in which the same shall be located, or if located in more than one town, then with the town clerk of one of such towns, whose duty it shall be to preserve the same with the town records and papers of his town; and the supervisor of such town, or if such village was located in more than one town the supervisors of such towns shall be the trustee or trustees of such village. No suit in which such village shall be a party, nor any claim for or against such village, shall be affected by its ceasing to be an incorporated village. L. 1847, c. 426, § 90, L. 1880, c. 172.

PROVISIONS TO PAY EXISTING DEBTS.—At the meeting to be called after any such village shall have determined to dissolve its incorporation, it shall be lawful to raise by tax any sum that may be necessary to pay and discharge all the existing debts and liabilities of the said village.—Id. § 91.

The Village Charter.

PART II.

General Act for the Incorporation of Villages, Chapter 291, Laws of 1870.

TITLE I.

SECTION 1. POPULATION AND TERRITORY REQUIRED FOR INCORPORATION—Any part of any town or towns not in any incorporated village, containing a resident population of not less than three hundred persons, and if it shall include in its boundaries a territory of more than one square mile in extent, containing a resident population of not less than three hundred persons in each and every additional square mile of territory included within such boundaries, may be incorporated as a village under the provisions of this act, by complying therewith, provided in case of any or part of any town or towns not containing three hundred resident population, but including in its boundaries a territory of not less than one half a square mile in extent, and a park of not less than forty acres used for a summer resort owned by an association incorporated by the state, upon filing in the county clerk's office of each county a map, as provided in section two of this title, and a petition signed by every property owner, liable to taxation, and every voter in such territory, properly acknowledged before some officer authorized to administer oaths, in favor of such incorporation, shall thereafter be incorporated as a village under this act by the name designated in such petition, and in such case and in no other, may proceed to elect village officers at once as provided in section eighteen of this title, and the first three names appearing in such petition shall constitute the first board of inspectors. As am'd. L. 1891, c. 116.

30 Hun. 548, 644; 32 id. 508; 35 id. 329; 48 id. 365; 35 id. 329; 44 id. 581; 98 N. Y. 501; 100 id. 92; 6 N. Y. St. R. 119; 25 W. D. 401.

§ 2. DESCRIPTION OF TERRITORY TO BE MADE.—The persons desiring such village incorporation shall cause an accurate survey and map and verbal description, by metes and bounds, of the territory intended to be embraced within such village, to be made by a practical surveyor, showing the quantity of land in such territory, all to be verified by the affidavit of the surveyor thereon or annexed thereto.

§ 3. CENSUS TO BE TAKEN.—Such persons shall also cause an accurate census to be taken of the resident population of such territory, as it may be, on some day, not more than twelve weeks previous to the time of the election upon the question of incorporation, as specified in the notice required by section seven of title one of this act, which census shall exhibit the name of every head of a family, and the number of such family, residing in such territory at the time of taking the census. Such census shall be verified by the affidavit of the person taking the same written thereon or annexed thereto.

§ 4. VERIFIED COPY OF DESCRIPTION.—A correct copy of such verbal description of such boundaries shall be made and verified by the affidavit of the party making the same, annexed to such copy or written thereon, to be safely kept by some one of the parties causing such survey to be made.

§ 5. DESCRIPTION AND CENSUS TO BE OPEN FOR EXAMINATION.—Such survey, maps, verbal description of boundaries and census, completed and verified as aforesaid, shall be left at the residence or place of business, within such territory, of some person residing therein, and shall be subject to examination at all reasonable hours, by persons residing in such territory, for the period of at least five weeks prior to the time of the election upon the question of incorporation, as fixed or to be fixed in the notice required by section seven of title one of this act.

§ 6. NOTICE OF LEAVING SAME TO BE POSTED.—Within three days after such survey, maps and verbal description of boundaries and census shall be left for examination as provided in section five of title one of this act, written or printed notices, signed by some one or more of the persons causing the making of such survey and taking such census, shall be posted in twenty public places in such territory, stating the place where such survey, map, description of boundaries and census are left for examination.

NOT TO APPLY TO WHOLE TOWN.—[The provisions of sections two, three, four, five and six of title one of said act shall not be deemed to apply in any case where the whole of any town is proposed to be incorporated.] L. 1871, c. 688.

§ 7. NOTICE OF HOLDING ELECTION TO VOTE ON INCORPORATION.—After the compliance with the preceding provisions, in case of the proposed incorporation of any part of a town or towns, or after a vote in favor of such incorporation of the whole town, at a regular or special town meeting of the voters thereof, in case of the proposed incorporation of the whole of such town as a village, a notice shall be prepared, stating that between the hours of ten in the forenoon and three in the afternoon on a specified day in said notice, at some public place within the bounds of the proposed village or where the proposed village is of parts of two or more towns at some public place within the bounds of the parts of such towns as are within the bounds of such proposed village, designating such place or places,

such day to be at least five weeks from the time of leaving the survey, map, description of boundaries and census for examination as hereinbefore provided, or in cases of the proposed incorporation of a whole town, not less than six weeks from the time of posting the notice hereinafter provided, an election will be held to determine whether the proposed territory shall be incorporated as a village. Such notice shall also state the proposed name of said village, set out the verbal description of its bounds, give the amount proposed to be expended the first year of the incorporation for ordinary expenditures, as defined in this act, and may also state the day upon which the annual election of elective officers of the corporation after the first election, shall be held in each year and shall be signed by at least twenty of the electors, resident within the bounds of said proposed village, who shall be liable to be assessed for the ordinary and extraordinary expenditures of said village. If the territorial limits of such village shall comprise parts of two or more towns, then there shall be at least ten electors from each of said towns who shall reside in the part of the town or towns to be taken for said village. Such notice so signed, shall be published in a newspaper, if there shall be one within the proposed bounds of said village, and copies of the same shall be posted in ten public places within said bounds at least thirty days before the day of election specified in said notice. As am'd L. 1871, c. 688. L. 1888, c. 172. L. 1892, c. 194.

§ 8. ELECTION, HOW CONDUCTED.—At the election provided for in such notice, the supervisor and town clerk of the town, or supervisors and town clerks of the towns, part or parts of which are taken for such village, shall constitute the board of inspectors for such election, preside at such election, and all the laws applicable to the election of town officers shall apply to such election and to all proceedings thereat, so far as the same shall be applicable and are consistent with the provisions of this act. Due notice of the time of such election shall be given to the persons herein designated as inspectors, by some one of the persons signing the notice required by section seven of title one of this act. L. 1892, c. 194.

§ 9. FORM OF BALLOT.—Every elector residing in such territory, and qualified to vote for town officers in the town in which such territory or some part thereof shall lie, may vote at such meeting by a ballot having thereon the word "Yes" or the word "No."

§ 10. INSPECTORS SHALL FILE CERTIFICATE OF RESULT.—Within three days after such election the said board or boards of inspectors shall make out a certificate or certificates of the holding of the same, and of the canvass of the ballots thereat, showing the whole number of such ballots, the number with the word "Yes" thereon, and with the word "No" thereon, with a copy of the notice of the holding of such election, and an affidavit of posting or publishing the same, as hereinbefore provided. Such certificate shall be signed by said inspectors, or a majority of them, and its truth verified by their affidavits annexed thereto, and shall, within ten days after such election, be filed and recorded in the county clerk's office of the county within which such territory shall be, or in case such territory shall be located in two or more counties, then

such certificate shall be filed with the county clerk of each of such counties. As am'd L, 1892, c. 194.

§ 11. APPEAL TO COUNTY JUDGE.—Within ten days after such filing any elector qualified to vote at such election may appeal to the county judge of the county in which such territory shall be located, or in case such territory shall be located in two or more counties, then to the county judge of either of said counties, by petition, specifying the irregularities in and objections to such election. Such judge, on proof by affidavit that such petition or notice of it has been served on the electors signing the notice for holding the election, or a majority of them, and that the person appealing has deposited with the county clerk of the county in which such territory is located, the sum of one hundred dollars to meet the expenses of the appeal, shall appoint a day for hearing the same, not more than ten days from the day of bringing the appeal; and, on such day, on proof by affidavit that the electors signing the election notice, or a majority of them, were notified, in writing, five days before such hearing, of such hearing, shall proceed to hear the same, such judge shall have power, by subpoena, to compel the attendance of witnesses before him on such day, or on adjourned days. His decision as to the legality or illegality of such election shall be rendered within thirty days from the day of presenting the petition of appeal to him. If such decision be adverse to the prayer of such petition, he shall, within ten days from rendering such decision, by order signed by him, direct such portions as he may deem just of the one hundred dollars deposited with the county clerk, to be paid by such clerk to the persons in such order named, and the balance to the person or persons who deposited the same. If no such allowance is made by the county judge within the ten days above specified, then he shall direct, by order, the county clerk to return such money to the person who deposited the same with him. The allowance for expenses out of the sum deposited must be made within ten days from the decision of the judge on the appeal. As am'd L. 1878, c. 59. 30 Hun. 548, 654; 66 id. 312; 70 id. 547; 49 St. Rep. 288; 53 id 732.

§ 12. ORDER AFFIRMING ELECTION.—If the county judge shall decide such election to be legal, he shall file an order to that effect in the county clerk's office of the county wherein such territory is located, or in case such territory shall be located in two or more counties, with the county clerk of each of such counties, within ten days from the day of making such decision. As am'd L. 1878, c. 59.

§ 13. COUNTY JUDGE WHEN TO ORDER NEW ELECTION; WHEN AND HOW NEW ELECTION HELD.—If the county judge shall decide such election to have been illegal, he shall forthwith, on rendering his decision, make an order and file the same in the county clerk's office in the county in which such territory shall be, or in case such territory shall be located in two or more counties, with the county clerk of each of such counties, directing another election to be held to determine the question of incorporation such territory. The election so ordered shall be held on notice of such election signed by some one or more of the persons designated as inspectors of election for the previous election as to incorporation, specifying the

hours of opening and closing the polls and place of holding the same, stating the proposed name of village and the amount for ordinary expenditures for the first year, and giving the verbal description provided for hereinbefore, of the bounds of such territory; such notice to be published or posted as hereinbefore provided in relation to the previous election, for at least fifteen days before the election. As am'd L. 1878, c. 59.

§ 14. SECOND ELECTION; HOW HELD.—Such election shall be held in the manner and by the persons as inspectors as hereinbefore provided for the first election, and with like powers to the inspectors, and the inspectors presiding shall make a certificate of such election, such as was required at the previous election, by this act, and file the same within ten days from the holding of such election as directed as to the certificate of the previous election.

§ 15. TERRITORY WHEN TO BECOME INCORPORATED.—If the majority of the ballots at the first election, or in case the village is part or parts of two or more towns, the majority of ballots in each part of the two or more towns shall have on them the word "Yes," and no appeal is taken from such election within the time hereinbefore specified for that purpose, then such territory shall be an incorporated village within the intent of this act from the time of the filing of the certificate or certificates of the inspectors. If the majority of the ballots cast at such election or in the parts of each town composing such proposed village have on them the word "Yes," and an appeal is taken and decided favorably to the legality of the election, then such territory shall be an incorporated village within the intent of this act from the date of the filing of the certificate of the inspectors as hereinbefore provided. If the decision on the appeal is adverse to the election, and the second election shall result in a majority of the ballots cast in each and every part of the parts of the town or towns within the bounds of the proposed village having thereon the word "Yes," then from the date of the filing of the certificate of the inspectors as hereinbefore required, of such second election, in the county clerk's office of the county where the territory is located, or in case such territory shall be located in two or more counties, with the county clerk of each of such counties, such territory shall be an incorporated village within the intent of this act. No appeal is allowed from such election. No village composed of part or parts of two or more towns shall be incorporated under this act unless a majority of the ballots cast at the election provided for by this section in each town shall have thereon the word "Yes.". As am'd L. 1878, c. 59, L. 1892, c. 194.

§ 16. SECOND ELECTION AFTER UNFAVORABLE VOTE; WHEN PERMITTED.—If at either of such elections a majority of the ballots cast shall have on them the word "No," then such territory shall not be an incorporated village, and in that case no second election can be held under this act within two years from the time the first of such elections was held.

§ 17. NAME OF CORPORATION.—The inhabitants of any village incorporated under this act shall be a corporation by the name stated in the notice of the election, incorporated in the certificate of the inspectors who

presided at the election which decided the question of incorporation, on file in the county clerk's office of the county wherein such village is situated, and may sue and be sued, complain and defend, in any courts by such name; may make and use a common seal and alter it, and receive, by gift, purchase, grant, devise or bequest, subject to all provisions of law now existing, relating to devises and bequests by last will and testament, and hold and convey such real and personal estate as the purposes of the corporation may require, as may be authorized by the provisions of this act.

§ 18. NOTICE OF ELECTION; PUBLICATION THEREOF; POLLS, HOW LONG TO BE KEPT OPEN.—Within twenty days after the day on which such territory shall become and be incorporated as a village, the persons hereinbefore designated as inspectors of the first election, or a majority of them, shall publish or cause to be published in a newspaper, if one shall be published in said village, and post or cause to be posted, in ten public places in such village, a notice stating that, on a day stated and at a place named in such village, and between certain hours, an election will be held for the election of such village officers as shall be required to be elected by this act. Such notice shall be published (if published at all in a newspaper) and posted at least fifteen days before the time of holding such election. Such election shall be held for at least the space of four hours uninterruptedly, between ten o'clock in the forenoon and four o'clock in the afternoon, and the notice of election shall state the hours of opening and closing the polls and the names of the offices to be filled. The provisions of section eight, title one of this act, shall, so far as applicable, apply to the election held under this section.

§ 19. CANVASS AND CERTIFICATE OF RESULT.—The persons presiding as inspectors, or a majority of them, at any election held by virtue of this act, after the village shall have been incorporated, shall immediately canvass the votes, openly declare the result, and make and subscribe a certificate of such canvass, showing the whole number of votes given, the number given for each person voted for, and the office for which he shall have been voted for, which certificate shall be recorded in the records of said village.

§ 20. PLURALITY OF VOTE TO ELECT; TIE VOTE;—The person eligible and having the greatest number of votes for any office shall be deemed elected to such office. If there shall be a tie to a particular office between two or more persons eligible, and having the greatest number of votes, the person presiding at such election shall forthwith determined by lot, in the presence of the other inspectors or of a majority of them, which shall be deemed elected, and set forth such fact in the certificate of the result made by them. This section shall apply to all subsueqent elections under this act.

TITLE II.

SECTION 1. VILLAGE OFFICERS.—The officers of a village incorporated under this act shall be as follows, unless otherwise herein directed: A president, three trustees, a treasurer, a clerk, a collector and a street commissioner.

57 Hun. 272; 59 id. 616; 54 St. Rep. 95.

§ 2. ADDITIONAL TRUSTEES.—If the resident population of the village shall exceed fifteen hundred then, if the board of trustees shall by resolution so direct, an additional trustee may be elected for each five hundred of population over the fifteen hundred until the entire number of trustees, exclusive of the president, shall be nine. As am'd. L. 1887, c. 514; 6, N. Y. St. R. 121; 54 id. 95.

§ 3. ELECTIVE AND APPOINTIVE OFFICERS.—The president, treasurer, collector, and one-half of the trustees, if an even number, shall be elected annually and if an odd number the smallest majority of them shall be elected at one annual election, and the largest minority at the next annual election. The first election after incorporation shall be deemed an annual election for the purposes of this section, and whenever for any reason a greater number of trustees are to be elected at a single election than is above provided the trustees may in their notice for the election designate the number of trustees to be elected for one and two years respectively, so that the number elected annually thereafter shall be as above provided. The clerk and street commissioner shall be appointed annually by the board of trustees. As am'd. L. 1892. c. 593.

FAILURE TO DESIGNATE TERM, NOT TO INVALIDATE ELECTION, TERM DETERMINED BY LOT.—The first election of trustees of any village heretofore held in any year since the year eighteen hundred and seventy nine, or that may hereafter be held, pursuant to an act entitled "An act to provide for the incorporation of villages" passed April twenteth eighteen hundred and seventy, and the acts amendatory thereof, shall not be invalid on account of the failure of the electors at such first election to designate in their ballots, the respective terms of office of the persons voted for trustees; but the persons for whom a majority of the votes shall have been cast for trustees shall be deemed to be the only elected trustees of such village for the year for which such election was held; and such trustees shall, at least ten days before the time for the next annual election of trustees for such village, meet with the president of such village, and the said president shall in the presence of such trustees determine by lot which of said trustees shall have been elected for one year and which of them for two years. The terms of office for the first class shall expire on the expiration of one year from the day they took office, and the terms of office of the second class, on the expiration of two years from the day they took office. If the number of trustees is three, or any other odd number the smallest majority shall serve for two years, and the largest minority for one year. The president shall make and file in the office of the clerk of such village a certificate stating the names of such trustees and the terms of office of each as so determined. As am'd. L. 1881, c. 17.

§ 4. CHIEF ENGINEER, FIRE WARDENS, POLICE CONSTABLES AND SEALER.—The board of trustees may, if in their judgment necessary, appoint, each year, a chief engineer of the fire department, one or more assistants, one or more fire wardens, one or more police constables, and a sealer of weights and measures.

§ 5. TERM OF VILLAGE OFFICERS.—All officers elected or appointed under this act shall hold their respective offices one year, except the trustees who shall hold their offices

for the term for which elected; and the said officer shall so hold for the respective terms aforesaid unless sooner removed or disqualified, and until their successors shall be elected or appointed and qualified. Excepting that the board of trustees may from time to time appoint police constables for a less term than one year. As am'd. L. 1892 c. 593.

§ 6. NOTICE OF OFFICERS ELECTED.—The inspectors of election, presiding at any election, or the clerk of the village, shall within five days after such election, notify the persons elected of their election.

§ 7. OATHS OF OFFICE TO BE FILED.—Every person elected or appointed to office under this act who shall neglect to file the oath of office hereinafter required for five days after personal notice, in writing, from the inspectors of election or the village clerk, of his election or appointment, shall be deemed to have declined the office, and his place may be filled as in case of a vacancy.

57 Hun. 272; 32 St. Rep. 643.

§ 8. ELIGIBILITY TO OFFICE; REMOVAL TO CREATE VACANCY.—No person shall be eligible to any office, unless he shall be at the time a resident and elector of the village. But any woman of the age of twenty-one years or over residing in such village shall be eligible to the office of clerk of such village. Whenever any officer of the village shall cease to be a resident thereof, his office shall become vacant. As a'md. L. 1893, c. 618.

§ 9. PRESIDENT AND TRUSTEES TO BE TAX PAYERS.—No person shall be eligible as president or trustee unless owning property liable to be assessed for the expenditures of the village.

§ 10. VACANCIES, HOW TO BE FILLED.—If there shall be a vacancy in any office under this act the board of trustees may fill the same. 44 Hun. 571, 581.

§ 11. OFFICIAL BONDS.—The treasurer, collector, street commissioner, police constable, and such other officers as may be required by the board of trustees, shall severally, before they enter upon the duties of their respective offices, execute and file with the village clerk a bond to the village, in such a sum and with such sureties as the board of trustees shall approve, conditioned that they will faithfully execute the duties of their respective offices, and account for and pay over all money received by them respectively. 81, N. Y. 406.

§ 12. MUST FILE OATH OF OFFICE.—Every person elected or appointed to office under the provisions of this act, shall before he enters on the duties of his office, take, subscribe and file with the village clerk, the oath of office provided by the Constitution. Such oath of office may be taken before the village clerk, a justice of the peace, or a judge or justice of a court aforesaid. As am'd. L. 1887, c. 68.

§ 13. QUALIFICATIONS OF VOTERS AT ELECTION.—All inhabitants of the village qualified to vote at town meetings, who have resided within the bounds of said village thirty days next preceding such election, shall be entitled to vote for all officers to be elected, and at all elections to to be held by this act, unless otherwise herein directed, but no person shall vote upon any proposition to raise a tax or

appropriate the same, or purchase property, unless he shall at the time be liable to be assessed for such tax in his own right, or in the right of his wife.

§ 14. REMOVALS FOR CAUSE.—Any officer appointed by the board of trustees may be removed by the board for misconduct on notice to such officer, and opportunity given him to make his defense.

§ 15. ANNUAL ELECTIONS; NOTICE–Elections of elective officers of the corporation, after the first election of officers, shall be held annually on the third Tuesday of March, commencing at one o'clock in the afternoon, or at such earlier hour in the day, after sunrise, as the board of trustees may direct, and shall continue till sunset, at such place as shall be designated by the trustees, or a majority of them; but in case the notice prescribed in section seven of title one of this act shall designate a day upon which the annual election of elective officers of the corporation after the first election shall be held in each year, the annual election of such officers shall be held on said day (instead of the third Tuesday in March,) each year after the first election, at one o'clock in the afternoon of said day, and continue until sunset, at such place as shall be designated by the trustees or a majority of them; at least six days notice shall be given by the trustees, or a majority of them, prior to said election, by posting notices in six conspicuous places in the village, by the clerk, or some one appointed by the trustees if there is no clerk, and such notice shall specify the hour at which such election shall commence. In case the trustees neglect to appoint a place, the election shall be held at the place of the last preceding annual election, and in case they neglect to appoint the hour of commencing, the election shall commence at the same hour as did the last preceding annual election.

CHANGE OF ANNUAL ELECTION; PETITION; SIX NOTICES TO BE POSTED; CERTIFICATE.—But any village incorporated under the provisions of this act may change the date on which such election shall be annually held to some other day, provided, however, that such change shall not be made unless upon the written application of the voters representing a majority of the taxable property of such village, directed to the board of trustees of such village, requesting the said board to submit the question of such change to a vote of the duly qualified voters of such village; upon the presentation of such application to the board of trustees, it shall be the duty of such board to cause written or printed notices of such election to be posted up in at least six conspicious public places in such village, stating the object of such election, and the date and time on which the same shall be held, which time shall not be less than thirty days nor more than sixty days from the time of posting such notices. Suitable ballots for such election shall be prepared under the direction of the board of trustees of such village. The said board of trustees shall preside at such election, shall canvass the votes cast, shall declare the result thereof and shall file a certificate thereof signed and sworn to by them in the office of the village clerk in such village. If a majority of all the votes cast shall be in favor of such change to another day than that named herein, then and in that case, such annual election shall thereafter be held in such village on the day specified

by a majority of the votes of such village. As am'd L. 1887, c. 68 and 1888 c. 172.

§ 16. INSPECTORS OF ELECTION; VACANCIES HOW FILLED.—The trustees and clerk of the village, after the first election of officers, shall be inspectors of elections for the village, and one or more of them shall preside at all elections. In case a trustee or the clerk shall not be present the electors may appoint a chairman to preside, who shall have all the powers of an inspector under this act.

§ 17. RETURNS OF ELECTION, HOW FILED.—The returns of every election under this act, after the election or elections as to incorporation, shall be filed with the clerk of the village.

§ 18. CHANGE OF CORPORATE NAME; ELECTION.—Upon the written application of twenty-five taxpayers of any village, the board of trustees thereof shall submit to the electors of the village at the next annual village election, a proposition to change the name of the village to a name specified in such application, said name having been approved by the postmaster general. The board of trustees shall cause a notice to be posted in six public places in such village, and published in the official village newspaper, if any, at least two weeks previous to such annual election, specifying the name which it is proposed such village shall assume. The board of trustees and clerk presiding at such annual election shall canvass the vote upon such resolution in the manner provided by law for the canvass of other votes at such election. If a majority of the ballots cast are in favor of the proposed new name such name shall be adopted. Immediately upon the completion of the canvass the return of the vote upon such proposition, signed by the trustees, shall be filed with the village clerk and the clerk of the county or counties within which such village is situated. Thereafter the village shall be known and designated by the name adopted at such election. Added by L. 1893, ch. 464.

TITLE III

SECTION 1. MEETINGS OF TRUSTEES; SPECIAL MEETINGS HOW CALLED.—The board of trustees shall meet at such times and place in the village as they shall by resolution direct. Special meetings may be called by the president or by the clerk, on the written request of two trustees at such time and place as the written notice to be served on the trustees shall direct. This notice shall be served at least one hour before time of meeting.

§ 2. PRESIDING OFFICER; QUORUM.—The president, when present, shall preside at meetings of the board, and have a vote on all questions; in his absence, any trustee may be appointed president for the time. A majority of the board shall constitute a quorum for the transaction of business.

§ 3. POWER TO MAKE BY-LAWS AND ORDINANCES.—The trustees shall have the care, management and control of the finances and property, and custody of the records and papers and seal, belonging to the corporation; and may

keep all buildings and other property of the corporation in repair, and insured against damage or loss by fire. The trustees shall have power, as to acts and matters within the corporate bounds, to make, publish, amend and repeal rules, ordinances and by-laws for the following purposes: 66 Hun. 631.

1. TO DEFINE DUTIES OF OFFICERS AND COMPENSATION.—To declare and define the duties, and manner of discharging the same, of all officers of the corporation whose duties are not especially prescribed by this act, and to add to the duties of those officers whose duties are thus prescribed, if the board of trustees deem necessary, and to fix the compensation of such officers, if not fixed by this act.

2. TO PREVENT VICE AND RESTRAIN DISORDERLY HOUSES.—To prevent vice and immorality, preserve the public peace and order, to restrain and suppress disorderly houses and houses of ill-fame or of assignation, gaming houses, and instruments and devices for gaming.—51 Hun. 291, 620, 643.

3. POLICE, LOCKUP.—To establish and maintain a police, prescribe their powers and duties, and to erect and maintain a lockup, or designate a place for the detention of persons arrested under this act, or under any by-law, rule or ordinance of said village, and to confine said persons therein, and it shall not be lawful for any constable of the town or county in which any village incorporated under this act is situate, to make any charge against such village or town or county in which the same is situated for services rendered in or respecting any criminal arrests or proceedings before magistrates or courts of special sessions or in or respecting any cases, trials or examinations in such village, when the subject matter thereof arose in such village, after the establishment and during the maintenance of a police in such village under this act, and it shall not be the duty of any constable to perform any service for which he is hereby prohibited, from making a charge. As am'd L. 1878 c. 249. L. 1881 c. 387. L. 1883 c. 153.

4. DISORDERLY PERSONS.—To apprehend and punish common prostitutes, vagrants and disorderly persons, and persons unnecessarily congregated upon the sidewalks or corners, or disturbing a public assembly. 51 Hun. 291, 620. 22 St. Rep. 558.

5. ATTORNEY.—To employ an attorney or attorneys for the transaction of any matter requiring legal skill. 23 N. Y. Sup. 422.

6. INCUMBERING STREETS AND WALKS.—To prevent incumbering the streets, squares, sidewalks, crosswalks, lanes and alleys, with any material whatever.

7. TO PREVENT ENCROACHMENTS.—To prevent any encroachment, or the erection of any projection from or opposite of any building in or over or upon any of the streets or sidewalks, and cause the same to be removed at the expense of the owner or occupant of the premises.

8. PUBLIC POUND KEEPER.—To establish and maintain a public pound, and appoint a keeper thereof, and to regulate his compensation and fees.

9. RUNNING AT LARGE OF ANIMALS.—To restrain the running at large of cattle, sheep, swine, geese or other

animals, and to authorize the distrained, impounding and sale of the same for the penalty and costs of keeping and proceedings.

10. LIGHTING STREETS.—To provide for the lighting of the streets and safety of the lamps.

NOTE.—See Part I, p. 62.

CONTRACT FOR LIGHTING VILLAGE.—The board of trustees of any village in this State incorporated under the act entitled "An act for the incorporation of villages," passed April twentieth, eighteen hundred and seventy and acts amendatory thereof and supplemental thereto, shall have the power, and they are hereby authorized and empowered to contract for a term of one year or more with any lighting company, organized under the laws of this State, or with any person or persons, for the lighting of streets and public grounds of such village, and the amount of such contract agreed to be paid shall be annually raised as a part of the expenses of such village, and shall be levied, assessed and collected in the manner that other expenses of said village are raised, and when collected shall be kept separate from other funds of such village, and shall be paid over to such lighting company, person or persons, by such trustees, according to the terms of any such contract; and any such contract entered into by the board of trustees of any such village shall be valid and binding upon such village, providing, however, that no such contract shall be made for a longer period than five years nor for a greater sum in the aggregate than two and one-half mills for every dollar of the taxable property of said village per annum, unless the proposition for the same be submitted to a vote of the electors of such village in the manner provided by sections four and five of chapter two hundred and ninety one of the laws of eighteen hundred and seventy, and approved by a majority of the voters entitled to vote and voting on such question, at an annual election or at a special election duly called. L. 1894, c. 673 991.

EXEMPT.—All of the counties in this State are hereby exempted from the provisions of this act except the county of Westchester. Id. § 2.

11. FIRE ENGINE HOUSES.—To erect and maintain fire engine houses, hook and ladder and hose houses.

12. FIRE APPARATUS.—To provide for the purchasing and repairing of fire engines, hooks and ladders, hose carts and hose, and all other necessary apparatus for the same.

13. RESERVOIRS AND FIRE LIMITS.—To construct and maintain reservoirs and cisterns, and supply them with water for use at fires; to protect and preserve property at fires; to establish fire limits, within the corporate bounds, by resolution of the board of trustees, describing the same by metes and boundaries, which resolution shall be filed in the office of the village clerk, and be posted in three places within the corporate bounds, to prevent fires and provide for their extinguishment. As am'd L. 1874, c. 78,75. Hun. 608.

14. TO REGULATE AMUSEMENTS; OPERA HOUSE LICENSE.—To regulate and prevent any act, amusement or practice endangering property or person, on the street or sidewalks or public grounds. And to require the owner or lessee of any public hall or opera house, before being let for public use, to obtain from such board of trustees a written

annual permit, which shall be granted, provided such hall or opera house has suitable and safe means of ingress and egress in case of panic or fire, but not otherwise, provided in such case no liability shall be incurred by such village by reason of such license or permit. L. 1882 c. 305.

15. DOGS.—To regulate and prevent the running at large of dogs in the village.

16. TREES. REMOVAL OF SNOW, ICE AND DIRT.—To protect trees, provide for keeping the sidewalks free from snow, ice, dirt and other obstructions; and to direct and compel the cleaning of the streets by the persons owning or occupying the premises fronting thereon.

17. SWIMMING.—To regulate swimming and bathing in the waters within and bounding the village.

18. IMMODERATE DRIVING.—To prevent immoderate riding or driving within the corporate limits, leaving horses untied in the streets, and to authorize any officer to stop any one guilty of such riding or driving in the streets.

19. SALE OF MEATS; SLAUGHTER HOUSES AND GUNPOWDER.—To regulate the time, place and manner of keeping and selling meats, fish, vegetables and other agricultural products, and the location of slaughter-houses, and places and houses for storing of gunpowder, or other explosive material.

20. ABATEMENT OF NUISANCES.—To compel the removal and abatement of any public nuisance, and, if not done within such time as the trustees may allow, to cause the same to be removed or abated at the expense of the village, and to declare such expense to be a lien upon the lot on or in front of which it was, and to enforce the collection of such expense by leasing the premises in the manner prescribed in this act for the collection of unpaid taxes, or by action against the owner or occupant of such lot, or any other person who may maintain or control such nuisance.—56 N. Y. 268; 120 id. 98; 14 N. Y. Sup. 159.

21. EXHIBITIONS.—To prohibit or regulate all exhibitions for money or hire, or authorize the same, on such terms as the trustees shall deem expedient.

22. TO REGULATE HAWKING AND PEDDLING, AUCTIONS, HACKS, AND PUBLIC CARRIAGES.—To restrain, regulate or prevent hawking and peddling in the streets; to regulate, restrain or prohibit sales by auction, and grant licenses to peddlers and auctioneers, and fix the amount to be paid therefor; to regulate the use and running of all hacks, public carriages or vehicles for the conveyance of passengers, baggage or movables of any kind, for hire through the public streets; to designate their places of waiting, and grant a license to the owners or proprietors thereof, and fix the amount to be paid for the same. As am'd L. 1874, c. 78; L. 1878 c. 281. 53 Hun. 164; 54 id. 140; 85 id. 238; 34 St. Rep. 237, 55 id. 405, 140 N. Y. 187.

23. USE OF CANDLES, KEROSENE, &C. FIRE LIMITS.—To regulate the use of candles, kerosene or burning materials of any kind, or lights or fires in barns and stables, and other places liable to take fire, and to control the construction of buildings, as to material, and prescribe the limits within which wooden buildings shall not be built, and prescribe the penalty not exceeding one thousand dollars, for a violation of any ordinance passed relating

thereto. As am'd L. 1877 c. 16. 13. ab. N. c. 468; 75 Hun. 608. 65 id. 140.

24. CEMETERIES.—To regulate and control all existing public cemeteries, and provide for the establishment of new ones, and to prevent all interments within the bounds of the corporation, except in such cemeteries.

25. STREETS, CULVERTS, BRIDGES, SEWERS, DRAINAGE.—To keep the roads, avenues, alleys, public buildings and public places of the village in good order, repair and condition; to construct culverts and drains; to make and repair all bridges which may be necessary within the bounds of the village; to regulate and prescribe the width, line and grade of streets, avenues, alleys and sidewalks to pave, macadamize, plank or flag streets, roads, alleys and gutters, and to assess the expenses thereof in crossing streets and alleys and along village property, and such additional portion thereof as shall appear to said board of trustees to be just and equitable, not exceeding one-third thereof in all, upon the taxpayers of the village, and to assess the remainder of the expense upon the owners of the lots upon or in front of which the street or alley is paved, in a just proportion, as near as may be according to the benefit accruing to said lots respectively; and upon the petition signed by a majority of the taxpayers of any street, to cause such street to be sprinkled, the expense thereof to be assessed upon the property benefited and to lay out and open new roads, alleys and streets; to widen, alter and change the grade or otherwise improve roads, avenues, streets, alleys and sidewalks; to drain stagnant waters, and to raise or fill up low ground, if nuisances, and assess the expense thereof upon the property benefited, in proportion to the amount of such benefit, and to regulate the water courses, ponds and watering places in the village; to cause all necessary sewers to be built, and assess the expense thereof in crossing streets and alleys along the village property upon the taxpayers, and the remainder of the expense to be assessed upon the owners of the lots upon or in front of which said sewer is made, or which are benefited thereby, in a just proportion, as near as may be, according to the benefit accruing to said lots respectively. The amount of the benefit in any case where the same is made the basis of assessement under this section, shall be determined by the president and trustees; provided, however, that no property beyond the limit of one hundred and seventy-five feet from the line terminus of any such sewer shall be liable to assessment for the expense of building the same; provided, also, that no streets or alleys shall be paved or macadamized and no sewer shall be constructed, under the provisions hereof, except upon a written petition, signed by a majority of the resident owners of the property which shall be liable to assessment for the said expense. All assessments for the paving of streets, drainage of stagnant waters, the raising and filling up of low ground, or the building of sewers, under the provisions of this section, shall be made out, enforced and collected in the same manner as assessments for the annual village tax, except that in assessments for the building of sewers, where valuation is not the basis of assessment, the valuation of property may be omitted from the assessment-roll. As am'd L. 1893 c. 212; 35 Hun. 329. 39 id. 243; 28 Id. 544; 42 Id. 270; 55 id. 606, 7 Lans. 434 98; N. Y. 496. 100 id. 89, 283, 343. 34 St. Rep. 238; 42 id. 617.

26. FIREWORKS AND FIREARMS.—To prevent and punish the discharge of firearms, rockets, gunpowder and fireworks in the roads, avenues, lanes, streets and public places of the village, or in the vicinity of any building therein.

27. BY-LAWS AND ORDINANCES.—The board of trustees shall have power to make and establish all legal by-laws, rules and ordinances necessary to carry out the purposes of this act, print and pay for the same, and to enforce such by-laws, rules and ordinances, and to pay the expenses of such enforcement out of the corporate funds. The trustees shall also have the power to prescribe penalties for a violation thereof, not exceeding one hundred dollars for each offense, but all such by-laws, rules and ordinances shall be posted in three public places in the village ten days before they shall take effect. 13 abb N. C. 468.

28. LANDING BOATS.—To regulate the landing within the village of boats while making excursions for pleasure, or the passengers therefrom, and in case the peace, order and quiet of the village shall require the same, to prohibit such landing of boats and passengers, and to prevent and prohibit any such passenger or passengers from coming into said village, or the entertainment and harboring of such passengers therein. Added by L. 1884, c. 129.

29. DRAINAGE; SEWERAGE; RIGHT OF WAY; COMMISSIONERS; COMPENSATION.—The president and trustees are further authorized and empowered to provide a proper and sufficient drainage and sewerage for the village, and to that end may agree for purchase and take conveyances for, in the name of the village, any real estate and right of way over any real estate, or any stream running through the village, or the town or county in which said village, or a part thereof, is situated for the purpose of such drainage or sewerage, or any suitable and proper place within said village, town or county, as may be determined upon by the president and trustees of the village, and may, by their agents or employes, for the purposes aforesaid and for such determination, enter upon the lands of any persons or corporations within the village, or within the town or county, in the county in which the village, or a part thereof, may be situated. In case the president and trustees of the village shall not agree with any owner or owners respecting any lands or rights which they may desire to acquire or may determine upon for the purposes aforesaid, or with the owner or owners of any lands through which said stream or its tributaries run, for the right to use the same for such purposes, then the said president and trustees shall cause a survey and map to be made of the lands intended or determined to be taken for said purposes, including the said stream and its tributaries, upon and by which the land of each owner and occupant thereof intended or determined to be taken or used for the purposes aforesaid, including said stream and its tributaries, shall be properly designated, which map shall be duly signed by the surveyor making the same and by the president of the village, and shall thereupon be duly filed in the office of the clerk of the county in which the land, real estate or stream, so to be taken, or any part thereot, is situated. The president and trustees of the village and the servants and employees thereof may enter upon any lands so desired or determined to be taken for the purpose of such drainage or sewerage for the making

of such survey and map, doing no unnecessary damage, however, thereto; after the making and filing of said maps, the president and trustees of the village may apply to the supreme court, at any special term thereof held in the judicial district in which the village is suitated, for and obtain the appointment of three commissioners to be appointed by the court, none of whom shall be residents of, or taxpayers within the village, or interested in the lands or streams so determined to be taken, by whom the damages suffered or sustained, or to be suffered or sustained by any person or persons, corporation or corporations, for any cause whatever; by reason of taking of such lands, or rights of way, or using said streams for the purposes aforesaid, shall be ascertained and awarded, and the amount of compensation therefor to be paid to any person or persons, corporation or corporations, duly determined. The supreme court may fill any vacancy which may occur by reason of the death, resignation, refusal or disability to act of any of the said commissioners. The said commissioners shall, before entering upon the duties of their office, take the usual constitutional oath of office, which shall be filed in the office of the clerk of the county in which such village or a part thereof is situated. The said commissioners shall cause a written notice of the time and place of their first meeting for the purpose of ascertaining and awarding the damages herein provided for, and the amount of compensation to be paid therefor, to be personally served upon such of the owners and occupants of said lands, so determined to be taken, as can be found within the county in which the same is situated, at least twenty days before the time of such meeting, and, in case of the absence of any such owner or occupants from their last or usual places of abode in said county, such notice may be served by leaving the same at such usual or last place of abode within said county, with some person of suitable age and discretion, at least twenty days before the time of such meeting. In case of the legal disability to act of any such owners or occupants, such service may, in like manner, be made upon the guardian, committee or other person having such person in charge. In case any of said owners are non-residents of the county in which said lands, real estate or streams are situated, and cannot be found therein, then such notice may, upon due proof of such fact being made to the supreme court or to a justice thereof, and upon an order therefor being duly granted by the said court of justice, be served upon such owners by publishing the same for six weeks successively, once in each week, in two newspapers to be designated by the court or justice granting the order. If any of said owners shall be insane, infants or idiots having no committee or general guardian, the supreme court shall, on proper application, appoint some suitable person to attend in their behalf, before said commissioners, and to protect their interests in the premises. The said commissioners may adjourn from time to time and to such place or places as they may deem advisable, and may issue subpoenas to compel the attendance of witnesses to testify before them, and shall have power to enforce obedience to their process. Any of the commissioners may admister the usual oath to such witnesses. The said commissioners shall make separate written reports of their proceedings had in relation to any real estate, right of way or stream not owned or occupied by the same person or

corporation, except such ownership or occupancy shall be that of tenants in common or joint tenants, to which shall be annexed the testimony taken by them in relation thereto, and which reports shall show, in each case separately, the sum awarded, if any, as compensation to the owner and occupant or both, of the lands so determined to be taken or to any other person, as compensation for the damages suffered, and to be suffered, and cause the same to be filed in the office of the clerk of the county in which such land, stream or part thereof is situated. An order may be entered confirming each report, without notice, eight days after notice of the filing of the same shall have been served on the attorneys who appeared for the respective owners, occupants or persons interested before the commissioners, unless exceptions to said report shall, in the meantime, and after notice of such filing, be duly filed in the office where such report shall have been filed. The president and trustees of the village shall pay to each of said commissioners, not to exceed the sum of five dollars per day, for each day, necessarily spent in the performance by him of his duties as such commissioner, and to each witness whom said commissioners shall certify was properly subpoenaed to attend before them in behalf of the village, the fees to which such witnesses would be entitled to receive in the courts of record of this State, and to the surveyor and servents employed by them, their proper compensation for the service performed in the matters hereinbefore authorized, together with the necessary expenses connected therewith, all of which shall constitute a portion of the ordinary expenses of the village. The president and trustees of the village, or any party to the proceedings had before said commissioners, may appeal to the supreme court from any award or determination of said commissioners. Such appeal shall be to the general term of said court, and must be taken within ten days after the service in writing of the notice of the filing of said report upon the party appealing, and must be by a written notice of appeal served upon the party or persons interested in the same, or upon the attorney who appeared for such party before said commissioners. The supreme court shall, upon such appeal, proceed to hear the same upon the report of said commissioners and the testimony taken by them, and may confirm the award appealed from or may increase or diminish the amount of the compensation awarded by said commissioners to any person appealing, or may reverse any of the proceedings had before said commissioners and order new proceedings and awards to be had and made before and by such commissioners, as shall be determined by such court on such appeal. The confirmation of said report, or the award made on such appeal increasing or diminishing the amount awarded by the commissioners, shall be final. In case of a reversal of the proceedings had before the commissioners, and a rehearing before them, pursuant to the order of judgment of the supreme court, all notices in relation to such rehearing may be served on the attorney for or on the party appealing and upon the attorney for, or on the party adversely interested in such appeal in the manner hereinbefore provided for the service of a notice of hearing before said commissioners at their first meeting. The proceedings and report of the commissioners, upon such rehearing, the filing of the same and the confirmation thereof, and any appeal therefrom, the

hearing thereon and all subsequent proceedings thereto, shall be had and taken, as herein provided, for the first hearing before said commissioners and the confirmation, modification or reversal of their report. Upon the payment or legal tender of the compensation awarded by the said commissioners, or by the supreme court, in case of an award made on appeal, the president and trustees of the village shall be entitled to and may enter upon and take all the lands and rights for which said compensation shall have been awarded as aforesaid, and may use and hold the same for, and permit the use thereof, under such regulations as they may prescribe, by the inhabitants of the village forever, for the purposes contemplated by this section; and the president and trustees of the village, their officers, servants and employes may at all times enter upon the lands through which the rights of way, as fixed by the report of said commissioners, or the order or judgment of the supreme court thereon, may extend, for the purpose of doing such work as may, in their judgment be necessary, to make the drainage and sewerage provided for in this section effectual. If any person, to whom any compensation shall be awarded, or who shall be entitled to the same, by virtue of said award, cannot be found, or shall refuse to receive such award, then said payment may be made by bringing the same into the supreme court and depositing the amount thereof, pursuant to the order of said court with the treasurer of the county in which the lands or rights for which such compensation was awarded are situated, to the credit of the person entitled thereto, as shown by said report, or the order or judgment thereon on appeal, and such deposit may thereafter be paid to the person or persons, corporation or corporations entitled to the same, on application to, and as the supreme court shall direct. All real estate and rights acquired by the president and trustees of the village, pursuant to the provisions of this section, for the purposes therein set forth, shall be deemed, and are hereby declared, to have been acquired for public use. Added by L. 1887, c. 513, § 1.

30. BANKS FOR VILLAGE DEPOSIT.—The board of trustees shall also have power and is hereby authorized to designate the banks in which the treasurer shall deposit all moneys belonging to the village, and require of such banks security for the payment of such moneys. The cashier of each of said banks shall report in writing to the board of trustees at each regular meeting thereof, the amount on deposit to the credit of the treasurer, at the close of the bank on the day of such meeting. Added by L. 1890 c. 236.

§ 4. TRUSTEES MAY COMPEL REPAIRS OF SIDEWALKS; $500 ANNUALLY MAY BE EXPENDED FOR SIDEWALKS.—The trustees shall have power to compel the owners and occupants of land or lots in front of and adjoining which a sidewalk is to be made or repaired, to make such improvements upon the sidewalk in front of said land or lot, to determine and prescribe the manner of doing the same, and the material to be used therein, and the quality or kind of such materials, and in case the owner or owners, occupant or occupants of any such land or lot shall neglect or refuse to complete the said required improvements within such reasonable time as shall be required by the trustees, the said trustees may cause such improvement to be made or completed, and the expense thereof may be by them

assessed on such owner or owners so neglecting or refusing, and be collected by warrant issued by the president and trustees as other taxes are directed to be collected by this act; and in case such tax or assessment shall not be paid or collected, the trustees may cause such real estate to be leased, or the owner thereof to be sued, for payment and collection of such tax, and the costs and expenses arising from non-payment, in the manner and with the effect, and subject to the provisions of this act in regard to the collection of taxes and assessments, by leasing of real estate, or by action at law against the person liable. But nothing in this section shall be so construed as to prevent the trustees from making expenditures of money raised under section six of title four of this act, in and toward the construction, alteration or repair of sidewalks in such village, whenever and wherever they may deem the same more for the benefit of all the inhabitants of such village than for such adjoining owners or occupants; provided that such last mentioned expenditures for sidewalks shall not exceed in any one year the sum of five hundred dollars, unless the taxpayers of such village, at a meeting specially called for that purpose, upon ten days notice, at which at least thirty taxpayers shall be present, shall authorize, by resolution, a larger expenditure. The resolution adopted at such meeting, duly authenticated, shall be placed with the records of such village entered on the minutes of the trustees. L. 1880 c. 422; 98 N. Y. 496, 501; 100 id. 89; 137 id. 364; 32 Barb. 634; 6 N. Y. St. Rep. 119; 50 id. 799.

§ 5. FIRE DEPARTMENT; MEMBERSHIP, ETC.—The trustees are authorized and empowered to organize a fire department and provide for the government and discipline of the same, to consist of one or more engine companies, one or more hook and ladder companies, one or more hose companies, and one or more protective companies; to appoint a sufficient number of suitable persons as members, not exceeding sixty to each engine company, not exceeding forty-five to each hook and ladder company, and not exceeding thirty to each hose company and protective company, with the consent of the persons appointed. A foreman and assistant-foreman for each company shall be chosen by the members of each company, in the manner to be directed by the trustees, and subject to their approval and ratification. As am'd L. 1880, c. 144, and 1886 c. 600.

§ 6. EXEMPTION OF FIREMEN FROM SERVING IN THE MILITIA.—Every member of the fire department, while such member, shall be exempt from serving in the militia, except in cases of war, invasion and insurrection, and every person who shall serve in such fire department five successive years shall thereafter be entitled to the like exemption from military service, and a certificate of such service, authenticated by the president of the village and the corporate seal, shall be presumptive evidence before all courts and officers, civil and military, of such exemption.

§ 7. CHIEF AND ASSISTANT ENGINEER.—The chief engineer of the fire department, and, in his absence, the senior assistant engineer, shall have the direction and control of the department, subject to such regulations as shall be prescribed by the trustees.

§ 8. MEASURES TO GUARD PUBLIC HEALTH; BOARD OF HEALTH; POWERS.—The trustees may, and it shall be their duty to take precautionary measures to guard the public health in time of infectious and pestilential diseases, and to provide against them when they appear in the village by providing places for the removal of persons having such diseases from the populous parts of the village, and to pay the expenses incident to such removal, and they shall have the power to remove such persons; and they shall have the power to appoint one or more health commissioners, who with the president, shall constitute a board of health of the village; and such board of health shall possess the powers conferred by, and be subject to the provisions of the act of the Legislature of the State of New York, entitled "An act for the preservation of the public health," passed April tenth, eighteen hundred and fifty, and acts amendatory thereof, in addition to the powers which may be given under this act. 37 Hun. 464, 465.

NOTE.—See Part 1, p. 55.

HOSPITAL OR PEST HOUSE.—No building or tent located within the limits of any village incorporated under chapter two hundred and ninety-one of the laws of eighteen hundred and seventy, entitled "An Act for the incorporation of villages," shall be used, occupied or maintained as a hospital or pest house for the reception and care of public or private patients, without the consent of the board of health of any such village. L.1893, c. 447.

§ 9. TRUSTEES TO AUDIT CLAIMS AND ACCOUNTS.—The trustees shall have the auditing of all accounts and claims against the village, and no account or claim shall be paid unless allowed by them, or after judgment obtained thereon. No action shall be maintained against the village for damages for personal injury to property alleged to have been sustained by reason of the negligence of the village or of any officer, agent or employe thereof, unless the same shall be commenced within two years after the cause of action therefor shall have accrued, nor unless the claim shall have been presented and notice of the time and place at which such injuries were received shall have been filed with the village clerk, or duly presented to the board of trustees within one year after such cause of action shall have accrued, when an account or claim shall be audited by them, the trustees auditing the same shall cause to be indorsed thereon, or annexed thereto, a certificate, signed by the president and countersigned by the clerk of the village, of such auditing and allowing or disallowing the same, in which the sum allowed and the fund out of which the same is to be paid shall be specified. As am'd. L. 1889 c. 440; 4 Hun. 321; 37 id. 464, 465; 66 id. 136; 69 id 442; 48 St. Rep. 887; 52 id 782.

§ 10. CLAIMS TO BE MADE OUT IN ITEMS AND VERIFIED.—No such account or claim shall be allowed by the trustees unless the date of the work done or materials furnished shall be stated therein, and be made out in items and accompanied by the affidavit of the person claiming to have rendreed the services or furnished the materials or made the disbursements therein charged, that the items of such account or claim are correct as to the service, material and disbursement mentioned; that such services and materials were rendered and furnished and disbursements made

for the corporation, at the time stated therein and no part of such claim has been paid. The claimant may be examined on oath by the trustees in relation to said claim and the items thereof. The affidavit and oath herein mentioned may be taken before the president of the village, or any of the trustees or the clerk of the village, and when certified by either of them may be read in evidence in any court of this State in the same manner as oaths and affidavits taken and certified by a justice of the peace; but no fee shall be charged or received by any president or trustee for any oath or affidavit taken before them or either of them. Nothing herein shall be construed as preventing the trustees from disallowing any account or claim in whole or in part when so made out and verified, nor from requiring other or further evidence of the correctness or reasonableness therof. Any person willfully swearing false in reference to any matter herein contained, shall be guilty of perjury. As am'd. L. 1872, c. 357; L. 1891, c. 160.

§ 11. TRUSTEES TO MAKE ANNUAL FINANCIAL STATEMENT; PUBLICATION OF EXPENDITURES AND EXPENSES. —The trustees shall present to every annual meeting of electors of the village, a detailed statement of expenditures for the past year, and of the estimated ordinary expenditures of such village for the ensuing year, to meet which taxes may be lawfully raised, specifying each item of anticipated expense, which statement shall be signed by them and filed with the clerk. And the trustees shall cause to be published for two consecutive weeks immediately preceding the annual election in a newspaper published in the village, and if none is published in the village, then in a newspaper published nearest such village, a full, accurate and detailed statement of all moneys received by said village or any of its officers, from whom and on what account, and also a full, accurate statement of all moneys laid out, paid out, to whom paid, and on what account for and during the year; and also the estimated ordinary expenditures of such village for the ensuing year, to meet which taxes may be lawfully raised, specifying each item of anticipated expenses. The village clerk and village treasurer shall furnish to said trustees full and correct statements of all such matters. As am'd. L. 1887 c. 513, L. 1891, c. 160.

§ 12. TO GIVE NAMES TO STREETS, ETC.—The trustees are empowered to give names, to the roads, lanes, streets, avenues and public places in the village.

§ 13. WHO TO ACT AS VILLAGE ASSESSORS; WHEN MAY BE ELECTED; TERMS; POWERS AND DUTIES; COMPENSATION, ETC.—The trustees or a majority of them, shall act as assessors of the village, or may appoint of their number a committee for that purpose, except that whenever the resident population of the village shall exceed two thousand, then on the written request of such effect of at least one hundred voters qualified to vote on a proposition to raise a tax or appropriate the same, the board of trustees may by resolution direct that three assessors shall be elected at the then next annual village election to be had thereafter, and if such proceedings be had, then thereafter assessors shall be elective officers of the village, and at such next annual election three assessors shall be elected, one of whom shall be elected for and shall serve for the term of three years, one of whom shall be elected for and shall serve for the term of two years, and one of whom shall be

elected for and serve for the term of one year, and at each annual village election thereafter one assessor shall be elected for and shall serve for the term of three years, and the trustees so acting as assessor, and in case where the assessors shall become elective officers under this act then the assessors so elected shall have the power of town assessors and be subject to the laws applicable to the same, subject to the provisions of this act. When the assessors are elected officers of the village, they shall be voted for on a separate ballot, and such ballot shall be deposited in a separate box. Any vacancy in the office of the village assessors shall be filled at the next annual village election after the happening thereof, and in the meantime and until such election shall be had by appointment by the board of trustees. It is further provided, however, that in any village wherein no assessors are elected, the trustees, or a majority of them may annually within twenty days after the annual village election, by an appointment in writing signed by them and filed with the clerk of the village, appoint a resident freeholder as assessor for the ensuing year. Such assessor so appointed shall take and file with the clerk within ten days after his appointment the usual oath of office as such assessor and officer, and when so appointed and qualified he shall act as such for the ensuing year within his village, and shall exclusively perform all the duties and possess and exercise all the powers possessed by or conferred by law upon the trustees when acting as assessors in making assessments and preparing, verifying and returning assessment-rolls, and he shall receive for his services the same compensation as a trustee when acting as or performing duties of an assessor. In case of any vacancy in the office of an assessor appointed as aforesaid, or his failure to serve, the trustees shall appoint another to serve the unexpired term in the same manner as they are authorized to make an original appointment. As am'd L. 1890, c. 213. 133 N. Y. 383.

§ 14. MAP OF THE VILLAGE; STREETS TO BE RECORDED.—The board of trustees shall cause a map to be made of such village, and cause all new public roads, avenues, streets and lanes in the village to be surveyed and described, and a description thereof recorded in a book to be kept by the clerk for that purpose. The map so made shall be kept by the clerk.

§ 15. ROOM FOR MEETING OF TRUSTEES.—The board of trustees shall have power to provide a suitable room for holding their meetings, and proper cases and books for the clerk to preserve the records and papers of the corporation.

§ 16. TRUSTEES MAY RAISE MONEY BY TAX; POLL TAX.—The trustees shall have power to raise, by assessment and tax, money for the expenditures required by the provisions of this act and the proceedings had thereunder, and may assess and collect a poll tax of one dollar on each male resident in the village between the ages of twenty-one and sixty years, except such male residents as may belong to and are active members of a fire engine, hose, hook and ladder or other company, formed and maintained for the purpose of extinguishing fires. As am'd L. 1876, c. 317.

§ 17. POLICE JUSTICE; ELECTION OF TRUSTEES BY DISTRICTS.—The trustees of any village incorporated under this act, containing a population of two thousand and upward,

may, whenever in their opinion the public interest demands it, at any time not less than thirty days preceding the next annual election for village officers, direct that at such election, and at every fourth election thereafter, there shall be elected a police justice, who shall be a resident of the village in which he shall be elected, and who shall hold office for four years, and shall have the same power and jurisdiction in criminal cases which justices of the peace now by law have, or which may hereafter be conferred on justices of the peace by law, and shall be subject to the same duties and liabilities as the justices of the peace of the several towns of this State, and shall have jurisdiction in all cases of violation of village ordinances. Any village incorporated under this act, or when the whole of any town shall have been duly organized as a village, the electors of such village may, if they so elect, at a meeting duly called for that purpose, provide for the division of such village into districts and for the election of the trustees of such village within the several districts which shall be established therein. As am'd L. 1871, c. 688; L. 1891, c. 160. 76 N. Y. 47.

JURISDICTION; SALARY; JUSTICES OF THE PEACE; WHEN TO ACT.—Such police justice shall have, within the village in which he shall have been elected or appointed, and in cases where the alleged crime or misdemeanor has been committed within such village exclusive jurisdiction, except as hereinafter provided, to issue all warrants, hear and determine all complaints and to conduct all examinations and trials in criminal cases that may now, by law, be had by a justice of the peace, or before a Court of Special Sessions; and shall have the same power and jurisdiction in such criminal cases which justices of the peace now have by law, or which may hereafter be conferred upon justices of the peace, by law, and shall have exclusive jurisdiction in all cases of violations of ordinances of the village of which he is police justice. He shall also have authority to administer oaths in verification of accounts and claims against the village, but shall have no other civil jurisdiction. He shall receive for his services an annual salary, to be fixed by the board of trustees, which shall not be increased or decreased during his term of office, but shall not retain to his own use any costs or fees. Said justice shall be subject to the same liabilities, and his judgments and proceedings may be reviewed in the same manner and to the same extent as now by law provided in case of justices of the peace. It shall be the duty of the several justices of the peace of the town in which such village is wholly or partially situated during the sickness, absence from the village, or inability to act, of the said police justice, or during a vacancy in said office, to render the same services and perform the same duties, and they shall be entitled to receive the same fees therefor as though no police justice had been elected or appointed in such village. But it shall not be lawful for said justices of the peace to make any charge against such village, or the town or county in which the same is situate, for services rendered in or respecting criminal cases, trials or examinations in such village, or where the subject matter thereof arose in such village, except as hereinbefore stated, during the sickness, absence from the village or inability to act of the said police justice, or during a vacancy in said office. As am'd L. 1875, c. 514; L. 1876 c. 308. 76 N. Y. 47.

POLICE'S JUSTICE RECORD; REPORT AND PAYMENT OF FINES.—It shall be the duty of said police justice to provide a suitable book, and therein to enter and keep a record of the several complaints made before him, in which a warrant or other process for the arrest of any person accused shall be granted, and of all cases in which the offender or person accused shall be brought before him without process, which record shall contain, under the proper date, a brief statement of the names of the parties, the nature of the offense charged, the action of the said police justice thereon, and an accurate account of all fines, penalties and costs imposed and collected by him or which may be ordered to be paid by any offender, and annually at least two weeks before the time appointed for holding the charter election of said village, and oftener when required by resolution of the board of trustees, he shall make a report in writing to the clerk of the village, of all fines, penalties, and costs imposed and collected by him, and the same day on which he shall make such report he shall pay over to the treasurer of said village all fines, penalties and costs in his hands belonging to said village. The provisions of this act shall not apply to any village in the county of Madison except the village of Hamilton and the village of Chittenango. L. 1875, c. 514. L. 1883, c. 118.

§ 18. MANNER OF FILLING VACANCIES.—Whenever any vacancy, by death, resignation, removal from the village, or inability to discharge the duties of the office, shall occur in the said office, the trustees shall order an election to fill such vacancy at the next annual election for village officers, and in the mean time may fill the vacancy by appointment, or may designate any one of the justices of the peace of the town in which said village is situated to perform the duties of police justice until such election shall have been held. L. 1871, c. 688.

§ 19. POLICE JUSTICE FEES; SALARY NOT CHANGED DURING TERM—The fees of the police justice elected or appointed as hereinbefore provided, and also of any justice of the peace while acting as police justice, under designation of the trustees as provided in the last section, shall be a charge upon the village, and shall be audited and allowed in the same manner as other village charges, excepting when such justice shall be allowed an annual salary fixed by the board of trustees; and the trustees of any village incorporated under this act are hereby authorized and empowered by resolution to be entered in their minutes to fix and established an annual salary to be paid to any police justice elected or appointed under this act, and which salary shall be in lieu of any fees to which such justice might otherwise be entitled, and all fees or changes which the police justice would have received had the officer not been salaried or which are required to be paid by law shall be accounted for by said police justice, and paid to the village treasurer, and which salary when so fixed and established, shall not be increased or decreased during the term of office of such police justice. As am'd L. 1871, c. 688; L. 1886, c. 616.

§ 20. OATH OF OFFICE.—Every police justice elected or appointed under this act shall, within ten days after his election and before entering upon the duties of his office, take and subscribe the constitutional oath of office, and file the same in the office of the town clerk of the town in which he resides. As am'd L. 1871, c. 688.

§ 21. PROVISIONS, NOT APPLICABLE.—Any provisions of title two of this act, inconsistent with the provisions hereinbefore contained relating to police justices, shall not be held to apply to the office of police justice. As am'd L. 1871, c. 688.

§ 22. CREDIT FOR STONE SIDEWALK, CERTIFICATE THEREOF.—Whenever any person owning or occupying lands adjoining a highway within the limits of any village incorporated under the provisions of this act shall, with the consent of the trustees of such village, or a majority of them, grade and flag or construct a stone sidewalk within such highway, along the line of such lands so owned or occupied by him, of the width of four or more feet, it shall be the duty of said trustees to examined the same when finished, and to credit such owner or occupant therefor so much on account of his assessment for highway tax in said village as such trustees shall deem necessary, to pay not to exceed three-fourths of the actual and necessary expense of constructing such sidewalk, and to deliver to such owner or occupant their certificate of the amount of such credit; but such credit shall in no case be less than three dollars per lineal rod for the amount of said walk so constructed and finished. If said trustees find said walk or walks to be of less value than four dollars per lineal rod, then they are to give no credit whatever for the construction of the same. The trustees of such village shall thereafter exempt the owner or occupant of such lands from all highway taxes in said village, 'till the amount of such exemption shall be equal to the sum of the credit for which said certificate was allowed. Added by L. 1880, c. 292.

TITLE IV.

SECTION 1. EXPENDITURES—The expenditures of the village shall be denominated "ordinary expenditures" and "extraordinary expenditures."

§ 2. ORDINARY EXPENDITURES.—"Ordinary expenditures" shall be those necessarily incurred to carry out and enforce the rules, by-laws and ordinances which the trustees are authorized to adopt by title three of this act, and to give force to the powers therein conferred, except as such expenditures may be specifically enlarge, or diminished, or controlled, by other provisions of this act. 39 Hun. 240, 242.

§ 3. LIMITATION.—No ordinary expenditure for any one specific act, object purpose or thing, except the lighting of streets, shall exceed the sum of five hundred dollars, and taxes raised for any specific item of anticipated expense under section eleven of title three of this act, shall not be applied to any other than the designated purpose during the current year. In villages having upwards of one thousand inhabitants, the trustees shall have power to expend a sum, not exceeding in the aggregate, fifty cents per capita per annum, of the population of the village for the purpose of lighting streets. Nothing herein contained shall be construed to abridge the powers of the trustees of any village to pay an annual salary to more than one police constable of such village, not exceeding the sum of five hundred dollars to each. As am'd L. 1891, c. 160; L. 1893, c. 400.

§ 4. EXTRAORDINARY EXPENDITURES; SPECIAL ELECTION; BONDS; AUCTION; NOT SOLD LESS THAN PAR.—The trustees shall have power to raise money for an extraordin-

ary expenditure for any village purposes by assessment and tax, by submitting a resolution, stating the amount to be raised and the specific object for which it is to be used; and whether the same is to be raised in one sum or in annual installments, and if in annual installments, the number thereof and the amount of each to the annual election, or to a special election, of the legal electors entitled to vote on such questions, to be held as in this act directed. The trustees shall have power to appoint such special election, designating time and place. If the majority of the ballots cast have on them the word "Yes," then the trustees may raise the amount voted, as stated in such resolution, without further action by such electors; and when the resolution adopted provides for raising the same in installments, the trustees may issue certificates of indebtedness or bonds of the village for the amount of such installments, payable respectively when such installments are to be raised, with interest not exceeding six per cent. per annum, and may apply the same, or the proceeds thereof, to the objects specified in such resolution. Said certificates or bonds shall be executed by the president of the board of trustees and the treasurer of said village, and unless the same shall be delivered in payment of the extraordinary expenditures for which they are issued, shall be sold by the trustees of said village to the highest bidder at public sale, notice of which shall be given by publishing the same in a newspaper published in said village at least once a week for two weeks successively, prior to the day of sale, and if no newspaper is published in said village, by posting such notice in three public places in said village, at least five days prior to such sale. Such certificates or bonds shall not be sold for less than par. As am'd L. 1884, c. 131. 27 Hun. 390; 39 id. 242.

§ 5. RESOLUTIONS FOR EXTRAORDINARY EXPENDITURES; ONLY ONE OBJECT; TO BE NUMBERED.—When extraordinary expenditures shall be necessary for any vi.lage purposes, in the judgment of the trustees, they shall have power to pass a resolution, or resolutions, to be entered in the records of their proceedings, specifying the object and the amount required, and whether the same is to be raised in one sum or in annual installments, and if in annual installments, the number thereof and the amount of each. No resolution shall express more than one object, and the amount required for the same, and whether it is to be raised in one sum or in annual installments, and if in annual installments, the number thereof and the amount of each. If more than one such resolution is submitted at the same election, whether an annual or special election, such resolutions shall be numbered respectively one, two, three, up to the number of the resolutions submitted, and the ballots used at such election shall be as many as the resolutions submitted, and having thereon the words "Resolution number one," or "Resolution number two," or "Resolution number three," up to the number of the resolutions, with the word "Yes," or the word "No." Ten days' notice of such election, whether an annual or special election, shall be given by the clerk by posting notices in six public places in the village, stating time and place and object of the election, and a copy of the resolution or resolutions to be submitted. The same inspectors shall preside at, and the same provisions apply to, such election, as are provided for in this act, for all village

elections held after the first election of officers of the village. If the majority of the ballots cast have thereon the word "Yes," for any resolution, such resolution shall be adopted. The return of the inspectors shall set forth each resolution voted on, and shall state the number of ballots with "Yes" or with "No," received for such resolution. The inspectors presiding at such election shall file their return of such election with the village clerk within ten days after such election. As am'd L. 1884, c. 131. 39 Hun. 242.

§ 6. HIGHWAY TAX; TO BE KEPT SEPARATE.—In addition to the amount raised by the trustees for "ordinary expenditures," the trustees shall have power, in any one year, in addition to the poll tax, to raise by tax such sum as they may deem necessary, not exceeding in any one year the amount per centum on the assessed valuation of such village, to be denominated a highway tax, to work and improve the roads, avenues, streets, public squares and parks, lanes, sidewalks and crosswalks of said village, on all persons and incorporated companies owning property estate, real and personal, in said village, to be assessed and collected as all other taxes are by the provisions of this act. The money so raised, with the proceeds of the poll tax, shall be devoted to the purpose expressed in this section, and kept apart as a separate and distinct fund by the treasurer. As am'd L. 1880, c. 422; 7 Lans. 434; 10 N. Y. St. Rep. 743.

§ 7. CONTRACTS FOR THE SUPPLYING OF WATER; LIMITATION.—The board of trustees shall also have power, and is hereby authorized to contract with any water company for supplying the village with water for the purpose of extinguishing fires, and to assess and collect the amount agreed to be paid in such contract, as other village taxes are assessed and collected; and any such contract entered into by the trustees of any village, shall be valid and binding upon such village; provided, however, that no such contract shall be made for a longer period than five years nor for a sum exceeding in the aggregate fifty cents per capita, per annum, of the population of the village, unless the proposition for the same be submitted to a vote of the citizens, in the manner provided in sections four and five of this title, and approved by a majority of the voters entitled to vote on such question, and voting at an annual election, or at a special election duly called. As am'd. L. 1879, 129; 129 Hun. 548.

§ 8. STREET LIGHTING.—The board of trustees shall also have power and is hereby authorized to contract with any gas company or gas and electric lighting company combined, or other person or persons for supplying the streets and public buildings of the village with light, and to assess and collect the amount agreed to be paid in such contract as other village taxes are assessed and collected, and any such contract entered into by the trustees of any village, shall be valid and binding upon such village provided, however, that no such contract shall be made (for a longer period than that now provided by law, nor for a sum exceeding in the aggregate that now provided by law) until the proposition for the same shall have been submitted to a vote of the citizens in the manner provided in sections four and five of this title and approved by a majority of the voters entitled to vote on such question, and voting at an

annual election or at a special election duly called, and such contract shall not be made for a term exceeding five years. Added by L. 1891, ch. 139; 67 Hun. 218; 51, St. Rep. 356.

TITLE V.

SECTION 1. DUTIES OF PRESIDENT; HEAD OF POLICE. —It shall be the duty of the president of the board to trustees to see that the by-laws, rules and ordinances of the village, and the provisions of this act, are enforced, and to recommend to the board such measures as he may think necessary; and, as the head of the police of the village, he shall maintain peace and good order, and have the power of arrest for such purpose. If the president shall be unable to perform the duties of his office, the board of trustees shall appoint one of their number to preside at their meetings, and he shall be vested with all the powers and perform all the duties of the president of the village until the president shall resume his office or the vacancy shall be filled according to law.

§ 2. DUTIES OF TREASURER; NOT TO CHECK MONEY EXCEPT ON WARRANT; REPORTS; SEPARATE ACCOUNTS EMBEZZLEMENT; INTEREST.—The treasurer shall receive all moneys belonging to the village, and keep an accurate account of all the receipts and expenditures. He shall daily deposit all moneys received by him in the banks designated by the board of trustees, subject to his check as treasurer. All money shall be drawn from the treasury, in pursuance of an order of the board of trustees, by warrant, signed by the president or the presiding officer of the board, and countersigned by the clerk. The treasurer shall not check out any money so deposited, except to satisfy a warrant upon the treasury, or to transfer it, on direction of the board of trustees to another deposit bank. He shall report in writing to the board of trustees at each regular meeting thereof the amount of money received by him and the sources from which received, and also the true state of the treasury which reports shall be filed in the office of the clerk. The books and entries of the treasurer, and the order or check book of the clerk, shall be open for inspection by any elector of the village, at all reasonable hours. The treasurer shall exhibit to the board of trustees, at least fifteen days before the annual election in each year, a full account of all the receipts and expenditures after the date of the last annual report, and also the state of the treasury; which account shall be filed in the office of the clerk. The treasurer shall keep separate accounts of the money received and paid out for every specific item, object, purpose or thing of estimated ordinary expenditure, amounting to one hundred dollars and upwards, and of the other ordinary expenditures, and of extraordinary expenditures, and on account of highway tax. If at the annual meeting of the electors of the village, there shall be a surplus of ordinary expenditure taxes on hand, the whole of such surplus shall be applied to the highway tax for the ensuing year. The treasurer, upon conviction of having lent or deposited in any bank not designated by the board of trustees, or unlawfully appropriated to his own use, any money of the village received by him shall be guilty of embezzlement. All interest realized on any money of the village, shall belong to the village. As am'd. L. 1890, c. 236, L. 1891, c. 160.

§ 3. JURISDICTION OF TOWN JUSTICE; FEES; EXCEPTION; COUNTY TO PAY VILLAGE; FINES.—Any justice of the peace of the town or towns in which such village shall be located, shall have jurisdiction in all criminal cases that may arise within the bounds of the village in the county in which they severally reside, with the same powers and subject to the duties and liabilities as a justice of the peace in other cases. He shall also have jurisdiction in all actions brought to recover fines or penalties for the violation of any provisions of this act, and of the rules, by-laws and ordinances of the village, or to recover any tax and assessment levied by the village, and his proceedings and judgments may be reviewed in the same manner as is or shall be provided by law in cases of judgments and proceedings of justices of the peace. Said justices shall receive the same fees and compensation as is provided by law for similar services. The fees and compensation of such justice shall be audited and paid and collected in the same manner as the fees of justices of the peace for similar services, except in those villages in which there shall be a police justice, and no fees or compensation shall be audited or allowed to any justice of the peace for services performed in any criminal case where the offense was, or was alleged to have been, committed within the limits of any such village, except that the claim for such compensation shall be accompanied in each instance with proof satisfactory to the auditing board that the police justice of said village was disqualified from acting, or was absent from said village at the time the proceedings were commenced before such justice of the peace. It shall be the duty of police justices in such villages to present to the Board of Supervisors of the county, an account for their fees and compensation in all cases when their services in criminal matters would be a county charge if performed by a justice of the peace, and such fees shall be audited and allowed, and the payments therefor made to the village paying such justice his salary. All fines recovered in suits for the violation of the provisions of this act, or the by-laws, rules and ordinances of the corporation, shall be paid over to the treasurer of the village upon their receipt by such justice. In such last mentioned suits, if judgment is entered, the said justice shall award costs including witnesses' fees and other legal disbursements, to the successful party, to the same amount as a justice of the peace could in civil actions or proceedings before him. As am'd L. 1878, c. 59; L. 1882, c. 316.

§ 4. POLICE CONSTABLES; POWERS AND DUTIES; SALARY IN LIEU OF FEES.—The persons appointed police constables shall have the power and be subject to the same duties in criminal and civil cases, cognizable by such justice, as constables of towns, one of whom shall be chief of police and all of whom shall be subject to the directions and orders of the president. They shall have the power, and it shall be their duty, to keep order in all public places in the village; to arrest persons concerned in riotous or noisy assemblages, or who are breaking the peace, or violating this act, or the by-laws, rules or ordinances of the village, and forthwith convey them before the proper authority, to be dealt with according to law, and to keep and retain such persons in custody until committed or discharged. Said police constables shall have power to execute any warrant or process issued by justices of the peace of the county or counties in

which such village is situated. The said police constables shall be paid for their services the same compensation as town constables for similar services, which shall be a charge upon the village and shall be audited and allowed in the same manner as other village charges, (except that when such police constable shall be allowed an annual salary, fixed by the board of trustees; and the trustees of any village incorporated under this act, are hereby authorized to fix and establish by resolution to be entered in their minutes, an annual salary to be paid to any police constable elected or appointed under this act, which salary shall be in lieu of any fees to which such police constable might otherwise be entitled.) As am'd L. 1878, c. 59; L. 1885, c. 192; L. 1889, c. 229.

(ARREST WITHOUT PROCESS.—When any person shall be arrested by a police constable without process, under section four, title five of the act entitled "An act for the incorporation of villages," passed April twentieth, eighteen hundred and seventy, and such person shall be brought before the proper justice of the peace, such magistrate shall proceed forthwith to hear, try and determine the complaint or charge on which such person is so arrested, and such person shall, upon conviction by the justice, be fined by such magistrate in accordance with any ordinance or by-law of the village, for the punishment of such offense, and imprisonment in the county jail until such fine he paid, not exceeding ten days.) L. 1875, c. 385.

§ 5. VILLAGE COLLECTOR; POWERS AND DUTIES.—The collector shall collect and receive all taxes and assessments, for which the warrant of the board of trustees, subscribed by the president and countersigned by the clerk, shall be delivered to him, and within the time specified in such warrant, and shall pay the same into the hands of the treasurer, without delay, and take receipt for the same, and make return to the clerk of the amount of taxes collected by him and paid over to the treasurer, and of taxes unpaid. The collector shall give a receipt to the clerk for the warrant and tax or assessment rolls delivered to him on his receiving the same.

§ 6. NOTICE OF RECEIVING PAYMENT OF TAXES; FEES.—After receiving the tax roll the collertor shall post notices in five public places in the village twelve days before the last one of the three days specified in the notice, stating that he will attend at a convenient place, specified in the notice, in the village, on three days specified, within fifteen days from date of notice, for the purpose of receiving payment of taxes; and he shall attend at such times and place accordingly. Any person or corporation paying any tax or assessment, within fifteen days from date of notice, shall be charged with one per cent. thereon for the fees of the collector, and no more. After the expiration of the fifteen days, the collector shall collect the taxes or assessments unpaid, with five per cent. thereon for his fees, in the same manner as is now provided by law for the collection of town and county taxes and with like power and authority as collectors of taxes of towns. 120 N. Y. 184; 116 id. 355.

TITLE VI.

SECTION 1. TRUSTEES TO MAKE ASSESSMENT, PENALTY.—The trustees, whose duty it shall be by this act to act as assessors, must, within sixty days after the annual meeting of the electors of the village proceed and assess, upon the taxable inhabitants and corporation and property liable to assessment and taxation within the village for village purposes such sum as they deem necessary, besides funds received and estimated to be received from other sources, to defray the ordinary expenditures of the village for the current year, not to exceed the amount fixed for that purpose in the detailed statement of the trustees presented at the annual meeting. Or in case such amount shall not have been so fixed and presented at the annual meeting, then not to exceed the amount which shall be fixed and estimated in like detail, and published in like manner by the trustees within thirty days after such annual meeting; also any sum directed at an annual election, to be raised as an extraordinary expenditure for a special purpose for that year; also the amount to be raised as a highway tax; also the poll tax. In case by reason of any actual or alleged error or defect in the assessment roll of the last previous year, the taxes authorized and intended to be assessed thereby were not wholly collected, and by reason thereof the amount of taxes raised in such previous year was insufficient to pay the ordinary expenditures of such village authorized by law and actually incurred, then the trustees whose duty it shall be by this act to act as assessors shall include the amount of such deficiency and the amont paid on such assessment roll of the previous year in the sum assessed for the current year, but shall credit upon such assessment made against the property of any person or corporation, the amount paid by such person or corporation upon such previous assessment and included in the sum assessed for the current year as aforesaid. Every trustee who shall willfully neglect or omit to make, sign and present at the annual meeting of the electors of the village a statement as required by section eleven of title three of this act shall be guilty of a misdemeanor. As am'd. L. 1889, c. 246.

§ 2. ASSESSMENT FOR EXTRAORDINARY EXPENDITURES.—They shall also, within twenty days after any extraordinary expenditure shall have been voted by the legal electors at a special election proceed to assess the amount in the manner herein directed as to ordinary expenditures.

§ 3. NOTICE OF COMPLETING ROLL; REVIEW THEREOF.—The persons acting as assessors shall, on completing the assessment roll, give ten days' notice, by posting notices in five public places in the village, stating that they will, in the village at a place and time stated, meet to hear and determine all complaints as to such roll. They shall have power and authority at such time to correct such roll as to them shall seem necessary. After the roll shall have been thus submitted, and corrected if necessary, they shall file the same and a copy thereof with the clerk of the village.

NOTE.—See part 1, page 70.

§ 4. DELIVERY OF ROLL AND WARRANT TO COLLECTOR; EXTENSION OF WARRANT.—The tax roll, when completed, shall be immediately delivered by the clerk to the collector, with a warrant thereunto annexed, signed by the president

and countersigned by the clerk, commanding him to collect the taxes therein specified, with his fees, and return said warrant and roll within sixty days after the date of the warrant, unless the time shall be extended. The board of trustees may extend the time for the return of such warrant thirty days beyond the first sixty days, and such extention shall in no event affect the validity of the board given by the collector and his sureties. 116 N. Y. 355.

§ 5. UNPAID TAXES.—All taxes or assessments which shall remain unpaid for thirty days of the final return of said warrant shall bear interest at the rate of twelve per cent. per annum from and after the date of such return, and shall be collected, as directed herein, either by the sale of the estate assessed, as herein provided, or by suit against the party liable to pay such assessment or tax, or the same, if not collected, shall be added to the amount or sum taxed or assessed against such party or parties to the next annual tax or assessment, and when so added, total sum or amount shall be collected in the same manner, or either of them, as herein provided. But this act shall not in any manner affect the liability of the collector and his sureties on the bond given by him. As am'd. L. 1881, c. 249.

§ 6. SALE OF LANDS FOR UNPAID TAXES.—When any person whose property or estate shall be assessed or taxed shall fail to pay the tax or assessment, and the collector cannot collect the same, and shall make return thereof, the trustees shall cause the estate so assessed to be sold at auction, for a term of time for the payment of such tax or assessment, giving four weeks' notice of such sale, by putting up notices in five public places in the village and serving personal notice on the owner or agent of said estate, if a resident of such village, or on the occupant thereof, and by depositing such notice in the post-office directed to such owner, if a non-resident, at his reputed place of residence, if known, at least ten days before the day of sale, and the same shall be sold to the person who shall take it for the shortest time for the payment of such tax or assessment, with interest at seven per cent., and the expense of such notice and sale. Before the time of sale the party liable for the tax, or his representative, may avoid the same by the sale by paying the tax to the treasurer, with twelve per cent. interest thereon and expense of notice and sale.

§ 7. REDEMPTION ; CERTIFICATE TO PURCHASER.—At any time within a year after such sale the owner or owners of the estate, or their representatives, may redeem the same, by paying to the purchaser thereof (if he shall have paid the tax and interest, and expense of sale,) the tax, expenses and interest thereon at twelve per cent. per annum from the date of the payment by the purchaser; in case the purchaser has not so paid them, by paying to the treasurer of the village the tax, expense of sale, and interest at twelve per cent. per annum from the time the tax was returned unpaid, and notifying the clerk of such payment. If such tax, expense and interest are not paid within one year from the date of sale, then the trustees shall deliver to the purchaser of the estate a certificate of such sale, under the seal of the corporation, and signed by the president, the execution of which may be acknowledged or proved as a deed, and upon the receipt of such certificate the purchaser may proceed to serve upon the holder or owner of any

lien upon such estate, or any part thereof, notices in writing of such sale, and that, unless redeemed within six months from the time of such service of notice, such certificate may be recorded in like manner and with like effect as in case of other conveyances of real estate. Such certificate shall be presumptive evidence of the statements contained in all courts and places, actions and proceedings.

§ 8. PURCHASER MAY OBTAIN POSSESSION.—The purchaser receiving such certificate, or his representatives, may, in case the land is not redeemed, as herein provided, enter into and occupy the same during the term for which it was sold, and shall be at liberty, within the term aforesaid, to remove all the buildings and materials which he may erect or place thereon.

§ 9. COLLECTION OF UNPAID TAXES BY CIVIL ACTION; JUDGMENT.—In case the collector shall return that a tax or assessment or any estate is unpaid, and he is unable to collect the same, the trustees are authorized and empowered, after the lapse of thirty days after the date of such return, to prosectue a civil action against the owner or owners of such estate in the corporate name of the village, and recover judgment for such tax, with twelve per cent. interest thereon, and all necessary costs and expenses of said action; said trustees may cause a transcript of such judgment to be filed, and such judgment docketed in the county clerk's office of the county wherein the village is situated, and the same, however small the amount, shall thereupon become a judgment of the county court, and be a lien on all real estate of the judgement debtor situate in the county where said judgment is docketed; and such real estate may be sold on execution issued to the sheriff of the county where the judgment is docketed, if not collected out of the personal property of the debtor, in the manner provided by law; and all the provisions of law in reference to sale and redemption of real estate on execution shall apply to sales and redemption under this act.

TITLE VII.

SECTION 1. POWERS OF TRUSTEES AS HIGHWAY COMMISSIONERS.—A village incorporated under this act, shall constitute a separate highway district within its corporate limits, exempt from the superintendence of any one, except the board of trustees, who shall be commissioners of highways in and for such village, and shall have all the powers of commissioners of highways of towns in this State, subject to this act, and, as such, they shall have power to discontinue, lay out, open, widen, alter, change the grade, or otherwise improve, roads, avenues, streets, public parks or squares, lanes, crosswalks and sidewalks; and for that purpose may take and appropriate any land in said village; but no road, avenue, street, lane or sidewalk, shall be opened or altered, unless all claims for damages on account of such opening or altering shall be released without remuneration, except on the written petition of at least ten freeholders, residing in said village, which petition shall specify the improvement to be made, describe the land to be taken, state the owner or owners thereof, when known, and shall be filed in the office of the clerk of the village. On the presentation of such petition the trustees shall, and must meet and examine the same; and, if they decide the

improvement shall be made, they shall so decide by resolution, to be entered in the minutes of the board; and they shall thereupon put up, in five public places in said village, a correct description of the lands to be taken to make such improvement, and a notice that the trustees, at a place and on a day, and at an hour therein specified, not less than five days from the date and posting thereof, will meet and hear any objections that may be made to the taking of such land or making such improvement; a copy of which notice must be served on the owner or owners of such land at least five days before said meeting, unless said owner is a non-resident of such village, in which case, said notice and descripition must be deposited in said village post-office, directed to said owner, at least twenty days before such meeting. Any person interested may be heard and introduce testimony before the board of trustees as to the matter, on the day specified in the notice, or on such other days as the board may appoint. After such hearing the trustees may deny the petition, or approve and declare, by resolution, to be entered in their minutes, their intention to make the said improvements, and proceed to obtain possession of the lands described, in the manner provided by this act. As am'd. L. 1871, c. 870 ; 6 N. Y. St. R. 121; 10 id. 743; 7 Lans. 434; 32 Hun. 508; 41 id. 370; 46 id. 134, 136; 52 id. 380, 382 ; 65 id. 620; 62 id. 619; 54 id. 604; 57 id. 590; 100 N. Y. 343; 101 id. 607; 102 id.81, 84 ; 137 id. 88, 364.

§ 2. DAMAGES FOR OPENING OR ALTERING STREETS; PROCEEDINGS ; AWARDED.—Whenever any road, avenue, street, square or park, lane or sidewalk, is opened or altered, the damages claimed by reason thereof may be determined by agreement between the board of trustees and the persons claiming such damages; but in case the damages are not so determined or released, the board shall, on being notified by the president, as in the case of a special meeting, or at a regular meeting, meet and cause a jury of six freeholders to be summoned to determine and award said damages; the said jury shall be selected as follows : The said board of trustees shall prepare a list of names of twelve freeholders of the village, in no wise of kin to the applicants, owners or occupants, or any or either of them, and not interested in the lands proposed to be taken; the said board shall cause a copy of such list, with a notice that a meeting will be held at some convenient time and place within the village, for the purpose of selecting the jury from such list, to be served on each of said owners at least three days before the time of said meeting, if residents of the village, and if not residents, then by sending such notice by mail at least six days before such meeting, directed to such non-residents at their places of residence, if known. At the time and place mentioned in said notice, the board of trustees shall meet, and the owners of the land may strike from the said list not more than six names, and of the number which remain, the six names standing first upon the list shall be the jury. The said board of trustees shall fix the time and place for the first meeting of the jury, and five days' notice thereof shall be given to the owner or owners of the land, if residents of the village, and if not such residents, then notice shall be served ten days before such meeting, by mail, directed to such non-resident owners at their place of residence, if known; the jury shall be sworn by any notary public or other officer authorized to

administer oaths in said village, faithfully and impartially to execute their duty; they shall examine the premises, hear the proofs and allegations of the parties, and reduce the testimony, if any, to writing; and they shall, by a majority vote, rule upon and decide all questions raised concerning the admissability of evidence offered and objected to before them. The jury shall determine and award the owner or owners of such lands such damages as they will sustain by the proposed alteration or improvement, after making allowance for any benefit which the owner or owners may derive therefrom. The determination and award of the jury shall be signed by them and filed in the office of the village clerk, and a copy served on the persons entitled to such award. If no appeal is made within twenty days from the time of such service, the determination and award of such jury shall be final and conclusive on all persons interested; a copy of such award certified by the clerk, under the seal of the village, shall be evidence of the same in all courts and places and in all actions and proceedings. As am'd. L. 1893, c. 694.

§ 3. TRUSTEES NOT TO ACT WHEN INTERESTED.—No trustee who is interested in any lands taken for such alteration or improvement shall act with the trustees when sitting as a board to determine the damages, or to summon the jury to award damages, for taking such land.

§ 4. APPEALS TO COUNTY JUDGE; PROEEDINGS.—Any person interested therein, may within twenty days after notice of award of the jury, appeal from such award by petition to the county judge of the cunty where such village is situated, or in case such village shall be located in two or more counties, than to the county judge of either of said counties, praying for the appointment to three commissioners residing in said county, to review said award of said jury. The person appealing shall execute a bond to the village in its corporate name in the penal sum of $250 with two sureties who shall justify in twice the amount, conditioned for the payment of the fees of the said commissioners and costs of appeal, in case the award of the jury shall not be increased twenty dollars by said commissioners to each party appealing. Filing such bond with, and serving a copy of said petition, with a copy of a notice of the time when,and place where, the same will be presented to the said judge or the village clerk, shall operate as a stay of proceedings until the decision of the commissioners thereon. All persons appealing from the award of the jury for damages, as to one single and continuous aleration or improvement, shall join in one petition, and may execute a joint and several bond in two hundred and fifty dollars, with sureties and conditioned as hereinbefore mentioned, and there shall be but one board of three commissioners appointed to review the award of such jury. At the time mentioned in the notice, and when the commissioners are appointed, any person may be heard in the matter, The said judge shall, on hearing the parties, appoint three disinterested electors as commissioners, residing in said county, but not in the village, to review the award of said jury, and determine and award the damages of the person or persons appealing. Immediate notice shall be given by some of the persons appealing to the persons designated as commissioners, and if anyone declines or is disqualified, the

judge shall appoint some disinterested person, an elector residing in said county but not in the village, to fill the vacancy. Said commissioners shall meet at such village within ten days after being notified of their appointment. They shall give the president of the village five days' notice of the time and place of their meeting, shall be sworn to do their duty, shall have power to compel attendance of witnesses by subpoena, shall examine the premises and hear the proofs and allegations of the parties, and shall award such damages to the parties appealing as they shall deem just. The award of the commissioners shall be signed by them and be returned to the president of the village within fifteen days after the first meeting of the commissioners, and shall be filed with the clerk. Said award shall be final and conclusive on all persons interested, and the board of trustees may thereupon, take possession of the land and make the said alteration or improvement. On declaring the award the commissioners shall each be paid by the treasurer of the village, three dollars per day for their services, and the amount so paid shall be collected by suit if not otherwise paid, with other proper expenditures made by and for the village in and about such an appeal, on the bond referred to in this section, given by the person or persons appealing, in case the person or persons appealing are liable to pay the costs of the appeal under the provisions of this act. In all cases of appeal under this section the judge to whom the appeal is made shall, by order, appoint guardians for any infant, lunatic or idiot interested in said proceedings. As am'd L. 1878, c. 59.

§ 5. ASSESSMENT FOR DAMAGES; PAYMENT OF AWARD. —Whenever a final award is made for damages sustained by reason of making such alteration or improvement, the persons acting as assessors may, within twenty days thereafter, assess the amount of such damages upon the estates, real and personal, in said village, and make out an assessment roll of such damages, which assessment roll shall be signed by the president and filed with the clerk, and be collected in the same manner as the annual tax is collected, and the trustees shall, within one year from the time of such final award, pay or tender the amount of such damage to the persons to whom the same shall have been awarded; and in case such owner shall refuse the same, or be unknown, or a non-resident of said village, idiot or lunatic, or the rights and interests of persons claiming the same shall be doubtful, it shall in such cases be lawful for the board of trustees to pay the amount of such damages to the county treasurer of the county where said lands are situated, for the benefit of such person or persons as may be entitled to the same, accompanied by a statement of the facts under which such payment was made. The board of trustees shall cause the clerk of said village to make an entry in the village records of the money deposited, stating amount, with the names of the parties by the awards declared to be entitled to the same. On the proper person or persons being ascertained, who are entitled to receive such money, the president of the village is authorized to draw an order on said county treasurer, countersigned by the clerk, and payable to the order of the person or persons entitled to such money, for the amount due such person or persons. 32 Hun. 230, 242; 46 id. 134.

TITLE VIII.

SECTION 1. POWERS OF INSPECTORS OF ELECTION.—At any election held in such village the inspectors presiding shall have the powers of town boards at the election of town officers; and all the laws applicable to such election shall apply to any election held under this act, and the proceedings of the same, so far as applicable and not in consistent with this act. The inspectors shall be subject to the provisions of this act as to elections.

§ 2. CERTIFICATES OF INSPECTORS CONCLUSIVE AS TO INCORPORATION.—The certificate of the inspectors of election presiding at first or second election at which the question of incorporating the village was decided affirmatively, or a copy of the same, certified by the county clerk of the county in whose office it shall be filed and recorded, with his seal of office, shall be final and conclusive proof of the incorporation of such village, and the regularity thereof, in all courts and places, and in all actions and proceedings, except in case of an appeal from the election as hereinbefore provided.

§ 3. FILING OF CERTIFICATES OF ELECTION.—The inspectors presiding at any election in the village, excepting one relating to the incorporation of the village, shall file their certificate of election within ten days after such election, with the village clerk, and such certificate, or a copy thereof certified by such clerk, with the seal of the corporation attached, shall be presumptive evidence of the truth of the statements set forth in such certificate, and of the validity of such election, in all courts and places, actions and proceedings.

§ 4. CONVEYANCES BY VILLAGE.—All conveyances by the village shall be in its corporate name, and be executed by the president thereof, authorized by resolution of the board of trustees, with the corporate seal annexed.

§ 5. RETURNS OF UNPAID TAXES HOW EVIDENCED—The return of any tax or assessment by the collector to the village clerk as unpaid, or a copy of the same certified by said clerk, with the corporate seal attached, shall be presumptive evidence of the truth of the statements in such return, in all courts and places, and in all actions and proceedings. And any assessment roll filed with the clerk, or a copy of the same certified by him, with the corporate seal attached, shall be presumptive evidence of the contents thereof and regularity of such assessment, in all courts and places, actions and proceedings, and of the right to levy any tax or make any assessment therein mentioned.

§ 6. ACTIONS HOW BROUGHT; COMPLAINT, WHAT TO STATE.—All actions brought to recover any penalty or forfeiture under this act, or under the rules, by-laws, and ordinances made in pursuance of it, shall be brought in the corporate name of the village, and in such action it shall be lawful to declare or complain generally for such penalty or forfeiture, stating the section of this act, or rule, by-law or ordinance under which the penalty or forfeiture is claimed, and briefly setting forth the violation thereof for which the complaint is made.

§ 7. FIRST PROCESS IN SUITS BY VILLAGE; IMPRISONMENT.—The first process in any suit brought by the village for a penalty under this act, or a rule, by-law or ordinances

adopted by the board of trustees in pursuance of said act, shall be a summons or warrant. If the defendant in such action has no property, personal or real, whereot the judgment can be collected, the execution shall require the defendant to be imprisoned in the county jail of the county in which the village is situated, or in case such village shall be located in two or more counties, then in the county jail of either of said counties, for a term not exceeding ten days. As a'md. L. 1878, c. 39.

§ 8 PROOF OF PUBLISHING AND POSTING NOTICES.—The affidavit of the party publishing or posting any notices required to be posted or published by the provisions of this act, or by any rule, by-law or ordinance made in pursuance thereof, of such posting or publishing, shall be deemed presumptive evidence thereof in all courts and places and in all actions and proceedings.

§ 9. COMPETENCY OF INHABITANTS AS JUSTICES AND JURORS; VILLAGE NOT TO GIVE BOND.—In action brought by or against the village, it shall not be an objection against the person acting as justice or juror in any such action, that he is a resident of the village or subject to taxation therein, and it shall not be necessary for the village in an action or proceeding to which it shall be a party to give any undertaking or security to appeal, or to obtain a provisional remedy, or to take or prevent any other proceeding. But the village shall be liable to the same extent as if it had given the bond, undertaking or security required by rule or by law As am'd. L. 1892, c. 222.

§ 10. DEBTS NOT CREATED; WHEN MONEY BORROWED.—Money cannot be borrowed on the credit of, nor can any debt be created in behalf of, the village, payable at a future time; nor can any debt or liability be incurred by the village, except for ordinary expenditures of the village or highway purposes within the income of the current year, for the ordinary expenditures or highway purposes applicable to such purposes. When the raising of any money for a special purpose as an extraordinary expenditure, as provided in this act, has been voted, the amount may be borrowed, or a liability by contract for the special purpose may be incurred, not exceeding the expense ordered, until the amount can be raised by a tax as herein provided.

§ 11. PERSONAL LIABILITY OF OFFICERS; MISDEMEANOR—Any officer or person who shall assume to create a liability or appropriate any money or property of the village, contrary to the provisions of this act, or shall assent thereunto, shall be personally liable for such debt or liability, and to the village for such money or property; and each of the trustees present when such violation shall have been committed, shall be deemed to have assented thereunto unless he shall express his discent and request the same to be entered upon the record of proceedings. Any willful violation of this section shall also be a misdemeanor.

§ 12. TRUSTEES NOT TO BE INTERESTED IN CONTRACTS.—No member of the board of trustees shall be interested in any contract to which the village shall be a party.

§ 13. RECORD OF PROCEEDINGS; AYES AND NOES TO BE RECORDED.—The board of trustees shall cause to be kept a record of its proceedings; all votes shall be taken by ayes and noes, when required by one of the trustees, and shall be entered in such record, and such record shall contain

the names of the members of the board present and voting on any question, and the affirmative and negative votes of the members so voting. 44 Hun. 581 ; 57 id. 277.

§ 14. TRIAL OF VAGRANTS AND DISORDERLY PERSONS.—When any person complained against as a vagrant, disorderly person, riotous person, or person keeping a disorderly house or a house of ill-fame or assignation or prostitution, under the provisions of this act, or any rule, by-law or ordinance made in reference to such persons under this act, shall be brought before an officer having jurisdiction of such matters, he shall, unless the offense complained of be indictable at common law, proceed forthwith to hear, try and determine the complaint against said person, as provided by law for the offense on which such person is arrested, or such officer may in his discretion adjourn the hearing on cause shown, not to exceed five days, and in the meantime commit the offender to the village lock-up or place of confinement or county jail, until such day, or suffer him or her to go at large on executing a bond approved by the said officer, conditioned that he or she will appear on the adjourned day, when trial shall be had.

§ 15. PENALTY FOR REFUSING TO DELIVER UP RECORDS, MONEY AND PROPERTY OF THE VILLAGE.—In case any person having been an officer of the village, shall refuse or neglect to deliver, to his successor in office, within ten days after notification and request, all the moneys, books, papers, records, property and effects of every description in his possession or under his control belonging to such village or appertaining to his office, he shall forfeit and pay for the use of the village the sum of twenty-five dollars for each and every day he shall so neglect or refuse, and also all damages caused by such refusal or neglect, to be recovered by suit by such village.

§ 16. ORDINANCES AND BY-LAWS ; HOW READ IN EVIDENCE.—Every ordinance, by-law, rule, resolution or proceeding of the board of trustees may be read and received in evidence in all courts of justice and in all places, and in all actions or proceedings, either from the original record, kept by the clerk of said village, or from a copy of such ordinance, by-law, rule, resolution or proceeding, certified under the corporate seal by the clerk, or from any printed volume containing such ordinance, by-law, rule, resolution, or proceeding, with the certificate of the clerk that such volume contains a correct copy of such ordinance, by law, rule, resolution, or proceeding, and that the same was printed under the authority of the board of trustees. 44 Hun. 581.

§ 17. VAGRANTS, WHO ARE.—The term "vagrants," as used in this act, comprises the persons described in part one chapter twenty, title two, section one of the Revised Statutes.

§ 18. DISORDERLY PERSONS DEFINED—All persons found intoxicated in the streets of the village, or persons who shall be guilty of noisy, riotous, or tumultuous conduct, disturb the quiet and peace of the village or of any meeting or assembly therein; all persons who shall willfully give a false alarm of fire; all persons who shall publicly use any profane, vulgar or obscene language or conduct in any street or public place in said village; all persons who shall willfully and maliciously break, mar, injure, remove or

deface, any building, fence, awning, sign, signboard, tree, shrubbery or other ornamental thing in said village; all persons who shall remove from or pile up before any door or on any sidewalk or street, boxes, casks or other things for the purpose of annoyance or mischief, or who shall willfully tear down, destroy or mutilate any notice or handbill lawfully posted up in said village; all persons who shall incite or induce dogs to fight in any of the streets or public places in said village; all persons, who, at the time of any fire in said village, shall be guilty of any insubordination or of any disorderly conduct, or who shall attempt to obstruct the operations of the fire department, or shall willfully neglect or refuse to obey, or attempt to prevent or obstruct the execution of, the orders of the trustees or officers of the fire department, shall be deemed and are hereby declared to be disorderly persons under this act, and under any rule, by-law or ordinance adopted in pursuance thereof for the punishment of disorderly persons.

§ 19. ARREST OF VAGRANTS AND DISORDERLY PERSONS—Any trustee or any police constable is hereby authorized to arrest any vagrant or disorderly person, with or without process, and take him or her forthwith before the proper officer. If such officer can not be found, the person arresting may detain the person arrested, not to exceed twenty-four hours, until the proper officer to try such person is found.

§ 20. ASSESSMENTS TO BE A LIEN UPON LANDS.—Every assessment made by the persons acting as assessors of the village shall be and remain a lien on the lot or lands assessed, in the same manner, and to the same effect, as town and county taxes, from the time of filing the assessment roll as herein directed, until paid or otherwise satisfied.

§ 21. ONLY ONE OFFICE AT A TIME.—No person shall hold at the same time more than one of the offices created by this act, unless otherwise provided herein.

§ 22. SERVICE ON JOINT TENANTS.—Whenever any real estate in said village is owned by two or more persons jointly, or as tenants in common, a notice served on one of such persons shall be sufficient notice to all and for any purposes requiring a notice under this act, and whenever said owner resides out of the village, it shall be sufficient to serve such notice on the occupant or lessee of such real estate, except as herein otherwise provided.

§ 23. RESIGNATION.—All resignations of any office under this act, shall be made to the trustees, subject to their acceptance.

§ 24. SURPLUS FUNDS.—If, at the end of the financial year, there shall be a surplus of funds with the corporation, over and above the expenses of the year, such surplus shall be applied to the next year's expenses

§ 25. VILLAGE ELECTIONS NOT ON TOWN MEETING DAY.—If a town meeting shall occur on the day appointed for the election of village officers by this act, in the town in which the village or any part thereof shall be situated, then such village election shall be held on the Wednesday next after the Tuesday appointed by this act, for such village election.

§ 26. NO COMPENSATION FOR PRESIDENT AND TRUSTEES.—The president and trustees of the village shall not receive any compensation for their services as such, but

the trustees who shall act as assessors shall receive the same pay per day as town assessors for each day actually and necessarily spent by them in making the assessment. As am'd. L. 1883, c. 459.

§ 27. CONSTRUCTION OF BRIDGES; POWER VESTED IN TRUSTEES; EXCEPTION.—The provisions in this act giving the board of trustees of a village power to construct, maintain and repair bridges within the village bounds, and making them commissioners of highways, and making the territory of the village a separate highway district, subject to the board of trustees alone, shall be construed as divesting the commissioners of highways for any town in which a bridge may be located, of all power, control or jurisdiction over the same, and of relieving such town highway commissioners of all duties in regard to the same, and as relieving such town from the expense of constructing, maintaining or repairing the same, providing that such bridge is within the bounds of a village incorporated under this act, and all power, control, jurisdiction and duty heretofore vested in and imposed upon such town commissioners of highways, for such town in regard to such bridge within such village territorial limits, are hereby vested in and imposed upon the board of trustees of such village, and the expense of the construction, maintenance or repair of such bridge or part of a bridge, shall be a charge upon the taxable property of the village in which the said bridge or part of a bridge shall be located, and shall be paid out of the corporate funds. As am'd L. 1890, c. 542. 35 Hun. 330.

All of the counties in this state are hereby exempted from the provisions of this act except the county of Westchester. Id. § 2.

NOTE.—See chapter 556, L. 1886.

§ 28. ACT HOW APPLICABLE.—The provisions of this act shall be applicable only to villages incorporated under it.

§ 29. EXPENSE OF INCORPORATION; HOW PAID.—The board of trustees of any village incorporated under this act are authorized to determine the expenses of effecting the incorporation, and pay the same out of the corporate funds.

§ 30. ELECTION TO DETERMINE QUESTION OF INCORPORATION; PROCEEDINGS.—Any village heretofore incorporated may become a corporation under the provisions of this act, and possess the powers given thereby, by a vote in favor thereof, at any annual or special election. Such vote shall be taken on a resolution adopted by the board of trustees, submitting the question of incorporation under this act to the qualified electors of the village. All persons, before qualified to vote at an election in such village, may vote at such election. Notice shall be given of such election by the trustees, setting out the resolution to be voted on, as is required to be given by this act in regard to special elections for extraordinary expenditures. If at such election the majority of the ballots cast shall have thereupon the word "Yes," then the village shall become and be incorporated under this act, and shall succeed to and possess all the property, rights of property and the rights of action existing at the time of incorporation under this act in favor of such village; and all actions, proceedings and suits then existing on the part of such village, or against such village, or rights of action against such village

then existing shall, after such vote, be unaffected thereby and be subject to the provisions of law under which they originated. The persons who had before presided at elections for village officers in such village, or a majority of them, shall preside at the elections directed in this section, and shall count the ballots and declare the result forthwith, and make return setting out the resolutions voted on the notices of election, and the number of ballots cast with "Yes," or with "No" thereon, and shall file such return with the clerk of the county in which the village is located, within ten days after the election, and verify such return with the oath of the inspectors. Such return, or a copy thereof, certified by such county clerk, with his official seal, shall be final and conclusive evidence of such incorporation and the regularity thereof, in all courts and places and in all actions and proceedings. In case it appears from such return that a majority of the ballots were cast with "Yes" thereon, the board of trustees shall, within ten days after filing such return, or within ten days after the passage of this act, appoint a special election in such village, to be held within twenty days, for the purpose of electing the officers provided by this act for such village. They shall give ten days' notice of the time and place of such election, which notice shall be published in all the newspapers printed in such village; and by posting the same in six public places in the village. At such election the same persons who are required to act as inspectors of election, at the election above provided for in this section, shall preside as inspectors of election; and such election shall be conducted, and its results certified, in all respects as regular and annual elections are required to be conducted, and the results certified under this act; and the persons elected to office at such election shall qualify and be clothed with the same powers and charged with the same duties as if elected at an annual election. The trustees shall submit at such special election the detailed statement required by section eleven of title three of this act. The trustees and other officers elected under the prior charter shall continue in office and discharge their duties under that charter until the election and qualification of the new officers as above provided for. As am'd. L. 1875, c. 339,99, N. Y. 600, 26, Hun. 282.

§ 31. COUNTY CLERK'S RECORDS.—The county clerk shall record all returns of inspectors of elections for the incorporation of villages held under this act in the records for the recording of deeds, or in a book to be specially provided for that purpose, and in case such village shall be located in two or more counties, then the county clerk of each county in which such village may be located, shall record such returns, as is herein provided:

Every such county clerk shall within ten days after such returns are filed send to the office of the Secretary of state a statement of the name and date of incorporation of such village, and the names of the town or towns, and county or counties in which such village is located.

FEES.—For the recording of such certificate, and making such statement the county clerk shall be paid the fees legally chargeable for the recording of deeds and the making of certified copies thereof. As am'd. L. 1878, c. 59, and L. 1887, c. 514.

§ 32. REPEAL OF OTHER ACTS.—All other general acts and laws of this state for the general incorporation of villages, are hereby appealed as to the future incorporation of villages, except section ninety and ninety-one of chapter four hundred and twenty-six of the laws of eighteen hundred and forty-seven, which section shall form a part of this act, and shall apply to all villages already incorporated, or which may hereafter be incorporated under this act. In case there shall be any village which has been incorporated under a general act or acts for that purpose, such act or acts shall continue to be of effect as to such villages so incorporated, until they may become incorporated under this act; and after their becoming so incorporated, shall cease to be operative as to such village, except as controlled by the provisions of this act. As am'd. L. 1874, c. 628.

NOTE.—For sections 90 and 91, above mentioned, see Part I, page 100.

§ 33. BOARD OF SUPERVISORS MAY EXTEND OR DIMINISH VILLAGE BOUNDARIES; PROCEEDINGS.—The board of supervisors of a county having as shown by the then last precedings federal or state enumeration, a population of not more than eighty thousand inhabitants, are hereby authorized and empowered to extend the boundaries of any incorporated village within such county, upon the petition of the president and board of trustees of such village and of one-half of the electors resident within the portion of territory sought to be included, who shall be liable to be assessed for the ordinary and extraordinary expenditures of such village, if so extended, by a vote of a majority of all the supervisors elected, to be taken by yeas and nays, provided, that no act, ordinance or resolution for such purpose shall be valid and operative unless it shall receive the affirmative vote of the supervisors of the town or towns from which additional territory is to be taken, in which such village is situated, and of the supervisor or supervisors, if any, of such village. And the said boards of supervisors are also authorized and empowered to diminish the boundaries of any incorporated village within their respective counties, so as to exclude from such incorporation any portion of the territory therein, upon the petition of two-thirds of the electors resident within the portions of territory sought to be so excluded, who shall be liable to be assessed for the ordinary or extraordinary expenditures of such village, by a vote of a majority of all the supervisors elected, to be taken by yeas and nays, provided, that no act, ordinance or resolution for such purpose shall be valid and operative unless it shall receive the affirmative vote of the supervisor or supervisors, if any, of such village. As am'd. L. 1871, c. 870, L. 1893, c. 503, 64 Bart. 353; 73 Hun. 495.

§ 34. PUBLIC ACT.—This act is hereby declared to be, and shall be, a public act.

§ 35. This act shall take effect immediately.

§ 36. TRUSTEES TO PUBLISH ACCOUNTS OF RECEIPTS AND EXPENDITURES.—It shall be the duty of the boards of trustees of each of the incorporated villages of this state. to cause to be published once in each year, and twenty days next before the annual meeting, in at least one public newspaper printed in such village, or in a public newspaper that is, to all intents and purposes, a village newspaper of

more than one village, and that has more than one publication office, one of which is in such incorporated village, a full and detailed account of all money received by them or the treasurer of said village, for the account and use thereof, and of all money expended therefor, giving the items of expenditures in full. Should there be no paper published in said village, they shall be required to publish the same, by notice to the taxpayers, by posting in five public places in said incorporated limits. As am'd L. 1875, c. 197.

§ 37. FUNDED AND FLOATING DEBT.—Said annual report shall also state the funded and floating or temporary debt of said village. As am'd L. 1874, c. 845.

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